NOTE

This Microfiche meets the quality requirements of the American National Standard for Microfiche of Documents (ANSI PH5.9-1975). However, because of imperfections in the document from which it was made, it contains images that are illegible or difficult to read. The source document for this microfiche is the best copy that could be obtained prior to filming.

Congressional Information Service, Inc
Washington, D.C.

CIS

MISCELLANEOUS TARIFF AND TRADE BILLS

HEARINGS
BEFORE THE
SUBCOMMITTEE ON TRADE
OF THE
COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES
NINETY-SEVENTH CONGRESS
SECOND SESSION

MAY 17 AND 26, 1982

Serial 97–58

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PRINTING OFFICE
95-418 O WASHINGTON: 1982

COMMITTEE ON WAYS AND MEANS

DAN ROSTENKOWSKI, Illinois, *Chairman*

SAM M. GIBBONS, Florida
J. J. PICKLE, Texas
CHARLES B. RANGEL, New York
FORTNEY H. (PETE) STARK, California
JAMES R. JONES, Oklahoma
ANDY JACOBS, Jr., Indiana
HAROLD FORD, Tennessee
KEN HOLLAND, South Carolina
WILLIAM M. BRODHEAD, Michigan
ED JENKINS, Georgia
RICHARD A. GEPHARDT, Missouri
THOMAS J. DOWNEY, New York
CECIL (CEC) HEFTEL, Hawaii
WYCHE FOWLER, Jr., Georgia
FRANK J. GUARINI, New Jersey
JAMES M. SHANNON, Massachusetts
MARTY RUSSO, Illinois
DON J. PEASE, Ohio
KENT HANCE, Texas
ROBERT T. MATSUI, California
DON BAILEY, Pennsylvania
BERYL ANTHONY, Jr., Arkansas

BARBER B. CONABLE, Jr., New York
JOHN J. DUNCAN, Tennessee
BILL ARCHER, Texas
GUY VANDER JAGT, Michigan
PHILIP M. CRANE, Illinois
BILL FRENZEL, Minnesota
JAMES G. MARTIN, North Carolina
L. A. (SKIP) BAFALIS, Florida
RICHARD T. SCHULZE, Pennsylvania
BILL GRADISON, Ohio
JOHN H. ROUSSELOT, California
W. HENSON MOORE, Louisiana

John J. Salmon, *Chief Counsel*
Joseph K. Dowley, *Assistant Chief Counsel*
Robert J. Leonard, *Chief Tax Counsel*
A. L. Singleton, *Minority Chief of Staff*

Subcommittee on Trade

SAM M. GIBBONS, Florida, *Chairman*

DAN ROSTENKOWSKI, Illinois
JAMES R. JONES, Oklahoma
ED JENKINS, Georgia
THOMAS J. DOWNEY, New York
DON J. PEASE, Ohio
KENT HANCE, Texas
WILLIAM M. BRODHEAD, Michigan
DON BAILEY, Pennsylvania

GUY VANDER JAGT, Michigan
BILL ARCHER, Texas
BILL FRENZEL, Minnesota
L. A. (SKIP) BAFALIS, Florida
RICHARD T. SCHULZE, Pennsylvania

David B. Rohr, *Professional Staff*
Mary Jane Wignot, *Professional Staff*

CONTENTS

Page

Press releases announcing the hearings 1

WITNESSES

- Department of Agriculture: Kerry E. Reynolds, International Economist 5
- Department of Commerce: Bruce Jon Miller, Director, Consumer Goods and Automotive Industries Division, International Trade Administration; and Barbara A. Steinbock, Office of International Sector Policy 5, 23
- National Aeronautics and Space Administration: S. Neil Hosenball, General Counsel 7
- U.S. Customs Service:
  - Arthur I. Rettinger, General Attorney, Office of the Chief Counsel 5
  - Ron Gerdes, U.S. Customs Service 23
- U.S. International Trade Commission: George J. Weise, Office of Tariff Affairs 5, 23
- Office of the U.S. Trade Representative:
  - Richard G. Meier, Deputy Assistant U.S. Trade Representative for GATT Affairs 5
  - Karen Glazer, Office of the U.S. Trade Representative 23

- ABS Industries, Inc., Ritchie T. Thomas 221
- Alexander, Donald C., Knoll Pharmaceutical Co 30
- American Cyanamid Co., Robert Mooney, St. Clair J. Tweedie, and Louis Schneider 293
- American Fur Merchants' Association, Inc., Joseph Poser and Walter Schwartz 183
- American Netting Manufacturers Organization, Joseph R. Amore, Howard C. Losea, and William K. Ince 153
- Amore, Joseph R., American Netting Manufacturers Organization 153
- Anderson, C. E., Salsbury Laboratories 274
- Association of Synthetic Yarn Manufacturers, Inc., Jim H. Conner, Jane Leonard, and Ray Maynard 79
- Avren, Joel S., Knickerbocker Toy Co 52
- Bacardi Imports, Inc., Robert B. White and John B. Rehm 314
- Badische Corp., William M. Caviston and Philip B. Stull, Jr 302
- Bicycle Manufacturers Association of America, Inc., Thomas F. Shannon and Lauren R. Howard 215
- Bream, Leroy G., Kimberly-Clark Corp., and Schweitzer Co 35
- Brock, J. C., Corp., Donald C. Lubick 225
- Bulova Watch Co., James S. Waterwash and Lawrence F. Codraro 46
- Caron International/Columbia Minerva, Dennis Smith 101
- Caviston, William M., Badische Corp 302
- Cheminova of Denmark, Beth C. Ring 107
- Clarke, Robert A., Dia-Compe, Inc 218
- Codraro, Lawrence F., Bulova Watch Co 46
- Cole National Corp., Craft Showcase Division, Joyce Davidson 101
- Conner, Jim H., Association of Synthetic Yarn Manufacturers, Inc 79
- Converse Rubber Co., Stephen Stone 56
- Cooper, Mitchell, Rubber Manufacturers Association 56
- Costakes, James, New Bedford Seafood Council 149
- Davidson, Joyce, National Needlework Association, and Cole National Corp 101
- de la Garza, Hon. E, a Representative in Congress from the State of Texas 74
- De Lugo, Hon. Ron, a Delegate to Congress from the Territory of the Virgin Islands 42

Page
Dever, Charles D., Dow Chemical 230
Devine, Samuel L., PepsiCo, Inc 33
Dia-Compe, Inc., Robert A. Clarke and Ronald Kolins 218
Diamond Shamrock Corp., Gustave J. Skapek and Robert Hill 279
Dimensions, Inc., David Page 101
Dow Chemical, Charles D. Dever and Rafael Miguel 230
Draper-King Cole, Inc., Donald C. Lubick 225
Edwards, Hon. Jack, a Representative in Congress from the State of Alabama 171
Evans, Hon. Cooper, a Representative in Congress from the State of Iowa 273
Ferraro, Hon. Geraldine A., a Representative in Congress from the State of New York 300
Fisher, Leonard, Rubber Manufacturers Association and Hyde Athletic Footwear 56
Florists' Transworld Delivery Association, Gordon L. Smith on behalf of Jimmy Williams 343
Freer, Robert E., Jr., Kimberly-Clark Corp 191
Fritschie, Gustave, National Fisheries Institute 147
Galloway, Clarus, Salsbury Laboratories 274
General Electric Co., Michael Pearlman and William G. Smith 237
Glynn, William T., Hitox Corp. of America 176
Goldstein, Larry, National Bulk Vendors Association 83
Hayes, William B., Kerr-McGee Chemical Corp 172
Hill, Robert, Diamond Shamrock Corp 279
Hitox Corp. of America, William T. Glynn 176
Howard, Lauren R., Bicycle Manufacturers Association of America, Inc. 215
Hyde Athletic Footwear, Leonard Fisher 56
IMAR Marketing, Inc., Michael Smolens 101
Ince, William K., American Netting Manufacturers Organization 153
Jacobsen, Leif, New Bedford Seafood Council 149
Kenin, James, Nike, Inc 60
Kerr-McGee Chemical Corp., William B. Hayes 172
Kimberly-Clark Corp.:
  Richard H. Kimberly, Jeanne H. van der Wal, and Leroy G. Bream 35
  Gene R. McGrevin, Robert E. Freer, Jr., and Jeanne H. van der Wal 191
Kimberly, Richard H., Kimberly-Clark Corp 35
Knickerbocker Toy Co., John A. McCarthy, George G. Lorinczi, and Joel S. Avren 52
Knoll Pharmaceutical Co., Donald C. Alexander 30
Kolins, Ronald, Dia-Compe, Inc 218
Krone, James C., Roses, Inc 318
Landry, Brock R., Schwinn Bicycle Co 211
Lemov, Michael R., National Bulk Vendors Association 83
Leonard, Jane, Association of Synthetic Yarn Manufacturers, Inc., and Unifi, Inc 79
Lorinczi, George G., Knickerbocker Toy Co 52
Losea, Howard C., American Netting Manufacturers Organization 153
Lubick, Donald C., J. C. Brock Corp., Buffalo, N.Y., and Draper-King Cole, Inc., Milton, Del 225
Maynard, Ray, Association of Synthetic Yarn Manufacturers, Inc., and Unifi, Inc 79
McGrevin, Gene R., Kimberly-Clark Corp 191
McCarthy, John A., Knickerbocker Toy Co 52
McIntyre, Robert V., Surgikos, Inc 188
Miguel, Rafael, Dow Chemical 230
Miller, George E., Trans Chemic Industries, Inc 109
Mooney, Robert, American Cyanamid Co 293
Morris, William, National Bulk Vendors Association 83
Much, Morrie, National Bulk Vendors Association 83
National Board of Fur Farm Organizations, Gorden Sill 185
National Bulk Vendors Association, Larry Goldstein, Morrie Much, Michael R. Lemov, and William Morris 83
National Customs Brokers and Forwarders Association of America, M. Sigmund Shapiro 305
National Fisheries Institute, Gustave Fritschie 147
National Needlework Association, Dennis Smith, David Page, Joyce Davidson, and Michael Smolens 101
National Pork Producers Council, C. D. Donald Van Houweling 290

Page
New Bedford Seafood Council, James Costakes and Leif Jacobsen 149
Nike, Inc., David H. Smith and James Kenin 60
Page, David, National Needlework Association, and Dimensions, Inc 101
Pearlman, Michael, General Electric Co 237
PepsiCo, Inc., Samuel L. Devine 33
Pharmacia, Inc., Louis Schneider 296
Poser, Joseph, American Fur Merchants' Association, Inc 183
Rehm, John B., Bacardi Imports, Inc 314
Ring, Beth C., Trans Chemic Industries and Cheminova of Denmark 107
Roses, Inc., James C. Krone and Terence P. Stewart 318
Rossides, Eugene T., Surgikos, Inc 188
Rubber Manufacturers Association, Mitchell Cooper, Stephen Stone, and Leonard Fisher 56
Salsbury Laboratories, Clarus Galloway and C. E. Anderson 274
Schneider, Louis, Pharmacia, Inc. and American Cyanamid Co 296
Schwartz, Walter, American Fur Merchants' Association 183
Schweitzer Co.-U.S., Leroy G. Bream 35
Schwinn Bicycle Co., Brock R. Landry 211
Shannon, Thomas F., Bicycle Manufacturers Association of America, Inc 215
Shapiro, M. Sigmund, National Customs Brokers and Forwarders Association of America 305
Sill, Gorden, National Board of Fur Farm Organizations 185
Skapek, Gustave J., Diamond Shamrock Corp 279
Smith, David S., Nike, Inc 60
Smith, Dennis, National Needlework Association and Caron International/Columbia Minerva 101
Smith, Gordon L., on behalf of Jimmy Williams, Florists' Transworld Delivery Association 343
Smith, William G., General Electric Co 237
Smolens, Michael, National Needlework Association, and IMAR Marketing, Inc 101
Stewart, Terence P., Roses, Inc 318
Stone, Stephen, Rubber Manufacturers Association and Converse Rubber Co 56
Studds, Hon. Gerry E., a Representative in Congress from the State of Massachusetts 143
Stull, Philip B., Jr., Badische Corp 302
Surgikos, Inc., Eugene T. Rossides and Robert V. McIntyre 188
Thomas, Ritchie T., ABS Industries, Inc 221
Trans Chemic Industries, Inc., George E. Miller and Beth C. Ring 109
Tweedie, St. Clair J., American Cyanamid Co 293
Unifi, Inc., Jane Leonard and Ray Maynard 79
van der Wal, Jeanne H., Kimberly-Clark Corp 191
Van Houweling, C. Donald, National Pork Producers Council 290
Waterwash, James S., Bulova Watch Co 46
White, Robert B., Bacardi Imports, Inc 314
Williams, Jimmy. (*See* Florists' Transworld Delivery Association.)

SUBMISSIONS FOR THE RECORD

Adams, Frank, Jr., Pfizer Chemical Division, letter 588
American Chemet Corp., William W. Shropshire, statement forwarded by Congressman Guy Vander Jagt 434
American Federation of Labor and Congress of Industrial Organizations, statement 456, 504, 529, 542, 549, 603, 609, 610
Armour Handcrafts, Inc., Jim Mackin, letter 610
AuCoin, Hon. Les, a Representative in Congress from the State of Oregon, joint statement 571
Bartosic, A. J., Rohm and Haas Co., letter 475
Berger, James R., World Courier, Inc., statement 375
Bowen, Hon. David R., a Representative in Congress from the State of Mississippi, statement 351
Brown, David S. J., Monsanto Co., statement 548
Campbell, James I., Jr., DHL Corp., statement 360
Caron International, John B. Caron, letter 610
Chemco Association, Morgan C. Pickering, letter 352
Clark, Cameron, Committee for 806.30 and 807, Inc., statement 550
Committee for 806.30 and 807, Inc., Cameron Clark, statement 550
Conner, Jim H., Craft Yarn Council of America, letter 611

Page
Cowell, Ed, Needlecraft Corp., of America, letter 612
Craft Yarn Council of America, Jim H. Conner, letter 611
Daly, William F., Resistol Hats, letter 504
DHL Corp., James I. Campbell, Jr., statement 360
Duncan, Hon. John J., a Representative in Congress from the State of Tennessee, statement 389
Eden Toys, Inc., David A. Miller, letter 550
Evans, O. Keister, International Hardwood Products Association, statement 362
Florida Fruit & Vegetable Association, John M. Himmelberg, statement 417
Frank, Hon. Barney, a Representative in Congress from the State of Massachusetts, statement 506
Frank, Peter M., Kerr-McGee Corp., letter and attachments 391
Friedman, Samuel, SCM Corp., statement and attachments 392
Gulf and Western Natural Resources Group, statement 389
Hasgrove Industries, Inc., Alan G. Hassenfeld, telegram 560
Hassenfeld, Alan G., Hasgrove Industries, Inc., telegram 560
Himmelberg, John M., Florida Fruit & Vegetable Association, letter and statement 417
Ideal Toy Corp., Lionel A. Weintraub, letter 561
International Hardwood Products Association, O. Keister Evans, statement 362
International Ladies' Garment Workers' Union (AFL-CIO), statements 603, 611
Isaacs, Harvey A., National Customs Brokers and Forwarders Association of America, Inc., letter 374
J. F. K. Airport Customs Brokers Association, Carl R. Soller, letter and attachment 364
Jones, Charlie W., Man-Made Fiber Producers Association, Inc., letter 359
Jula, Dr. Theodore, Polaroid Corp., statement 514
Kaplan, Joseph S., Rachelle Laboratories, Inc., statement 464
Kerr-McGee Corp., Peter M. Frank, letter and attachments 391
Mackin, Jim, Armour Handcrafts, Inc., letter 610
Man-Made Fiber Producers Association, Inc., Charlie W. Jones, letter 359
Mayer, Arnold, United Food & Commercial Workers International Union (AFL-CIO), statement 542
Miller, David A., Eden Toys, Inc., letter 550
Miller, Malcolm, Prentiss Drug and Chemical Co., Inc., letter 464
Monsanto Co., David S. J. Brown, statement 548
National Customs Brokers & Forwarders Association of America, Inc., Harvey A. Isaacs, letter 374
Neal, John, Occidental Chemical Co., letter 352
Needlecraft Corp. of America, Ed Cowell, letter 612
Occidental Chemical Co., John Neal, letter 352
Panetta, Hon. Leon E., a Representative in Congress from the State of California, statement 317
Pfizer Chemical Division, Frank Adams, Jr., letter 588
Pickering, Morgan C., Chemco Association, letter 352
Polaroid Corp., Dr. Theodore Jula, statement 514
Prentiss Drug and Chemical Co., Inc., Malcolm Miller, letter 464
Quality Plus Products, Thomas D. Schmoker, letter 464
Rachelle Laboratories, Inc., Joseph S. Kaplan, statement 464
Reisman, H., Corp., Harvey Reisman, letter 466
Resistol Hats, William F. Daly, letter 504
Rhone-Poulenc, Inc., R. M. Verburg, letter 466
Rohm and Haas Co., A. J. Bartosic, letter 475
Schmoker, Thomas D., Quality Plus Products, letter 464
Schoenfeld, Sidney, SSC International, Inc., statement 504
Schulze, Hon. Richard T., a Representative in Congress from the State of Pennsylvania, statement 316, 317, 512
SCM Corp., Samuel Friedman, statement and attachments 392
Shropshire, William W., American Chemet Corp., statement forwarded by Congressman Guy Vander Jagt 434
Shwartz, Alvin H., Universal Industries Inc., letter 571
Siegel, I. H., Veterinary Laboratories, Inc., letter 466
Solarz, Hon. Stephen J., a Representative in Congress from the State of New York, statement 503
Soller, Carl R., J. F. K. Airport Customs Brokers Association, letter and attachment 364
SSC International, Inc., Sidney Schoenfeld, statement 604
Thompson, Inc., J. H., George C. Turner, letter 606

Page
Turner, George C., J. H. Thompson, Inc., letter 606
United Food & Commercial Workers International Union (AFL-CIO), Arnold Mayer, statement 542
United States-Mexico Chamber of Commerce, Gerard J. Van Heuven, letter 581
Universal Industries, Inc., Alvin H. Shwartz, letter 571
Van Heuven, Gerard J., United States-Mexico Chamber of Commerce, letter 581
Vander Jagt, Hon. Guy, a Representative in Congress from the State of Michigan, letter 434
Verburg, R. M., Rhone-Poulenc, Inc., letter 466
Veterinary Laboratories, Inc., I. H. Siegel, letter 466
Weintraub, Lionel A., Ideal Toy Corp., letter 561
World Courier, Inc., James R. Bergen, statement 375
Wyden, Hon. Ron, a Representative in Congress from the State of Oregon, joint statement 571

APPENDIX

[Listed below are agency reports and written comments received on specific bills.]

H.R. 3649:

Department of State 347
Department of Commerce 347
U.S. International Trade Commission 348
Department of Agriculture 351
Hon. David R. Bowen, a Representative in Congress from the State of Mississippi, statement 351
Chemco Association, Morgan C. Pickering, letter 352
Occidental Chemical Co., John Neal, letter 352

H.R. 4002:

U.S. International Trade Commission 354
Man-Made Fiber Producers Association, Inc., Charlie W. Jones, letter 359

H.R. 4134 and H.R. 5170:

DHL Corp., James I. Campbell, Jr., statement 360
International Hardwood Products Association, O. Keister Evans, statement and attachment 362
J. F. K. Airport Customs Brokers Association, Carl R. Soller, letter and attachment 364
National Customs Brokers & Forwarders Association of America, Inc., Harvey A. Isaacs, letter 374
World Courier, Inc., James R. Berger, statement 375

H.R. 4155:

Department of State 382
Department of the Treasury 382
Department of Commerce 382
U.S. International Trade Commission 383

H.R. 4480:

Department of State 386
Department of the Treasury 386
U.S. International Trade Commission 387
The U.S. Trade Representative 388
Hon. John J. Duncan, a Representative in Congress from the State of Tennessee, statement 389
Gulf & Western Natural Resources Group, statement 389
Kerr-McGee Corp., Peter M. Frank, letter and attachment 391
SCM Corp., Samuel Friedman, statement and attachment 392

H.R. 4494:

Department of State 398
Department of the Treasury 398
Department of Commerce 398
U.S. International Trade Commission 399
Department of Labor 402

H.R. 4501:

U.S. International Trade Commission 403
Florida Fruit & Vegetable Association, John M. Himmelberg, statement 417

H.R. 4602:

Department of State 419
Department of the Treasury 419

H.R. 4602—Continued

Page
U.S. International Trade Commission ... 420

H.R. 4641:

Department of Commerce ... 423
U.S. International Trade Commission ... 425
Hon. Guy Vander Jagt, letter and attachment ... 434
American Chemet Corp., William W. Shropshire, statement forwarded by Congressman Guy Vander Jagt ... 434

H.R. 4642:

Department of State ... 436
Department of the Treasury ... 436
Department of Commerce ... 436
U.S. International Trade Commission ... 437
Department of Labor ... 438

H.R. 4690:

Department of State ... 439
Department of the Treasury ... 439
Hon. Richard T. Schulze, a Representative in Congress from the State of Pennsylvania, statement ... 316

H.R. 4806:

Department of State ... 440
Department of Commerce ... 440
U.S. International Trade Commission ... 441

H.R. 4844:

U.S. International Trade Commission ... 450
American Federation of Labor and Congress of Industrial Organizations statement ... 456

H.R. 4890:

U.S. International Trade Commission ... 457
Prentiss Drug & Chemical Co., Inc., Malcolm Miller, letter ... 464
Quality Plus Products, Thomas D. Schmoker, letter ... 464
Rachelle Laboratories, Inc., Joseph F. Kaplan, statement ... 464
H. Reisman Corp., Harvey Reisman, letter ... 466
Rhone-Poulenc, Inc., R. M. Verburg, letter ... 466
Veterinary Laboratories, Inc., I. H. Siegel, letter ... 466

H.R. 4913:

Department of State ... 467
Department of Commerce ... 467
U.S. International Trade Commission ... 468
Department of Agriculture ... 475
Rohm & Haas Co., A. J. Bartosic, letter ... 475

H.R. 5041:

[No reports or comments were received on this bill.]

H.R. 5058:

Department of State ... 477
Department of the Treasury ... 477
Department of Commerce ... 477
U.S. International Trade Commission ... 479
Department of Agriculture ... 483
Department of Labor ... 483

H.R. 5080:

Department of Commerce ... 484
U.S. International Trade Commission ... 485

H.R. 5372:

[No reports or comments were received on this bill.]

H.R. 5386:

U.S. International Trade Commission ... 492
Hon. Stephen J. Solarz, a Representative in Congress from the State of New York, statement ... 503
American Federation of Labor and Congress of Industrial Organizations, statement ... 504
Resistol Hats, William F. Daly, letter ... 504

H.R. 5490:

The United States Trade Representative ... 506
Hon. Barney Frank, a Representative in Congress from the State of Massachusetts, statement ... 506

H.R. 5498:

U.S. International Trade Commission ... 507

H.R. 5498—Continued

Page
Hon. Richard T. Schulze, a Representative in Congress from the State of Pennsylvania, statement 512

H.R. 5499:

U.S. International Trade Commission 513
Polaroid Corp., Dr. Theodore Jula, statement 514

H.R. 5554:

U.S. International Trade Commission 519
American Federation of Labor and Congress of Industrial Organizations, statement 529

H.R. 5707:

U.S. International Trade Commission 530
American Federation of Labor and Congress of Industrial Organizations, statement 542
United Food & Commercial Workers International Union, Arnold Mayer, statement 542

H.R. 5730:

U.S. International Trade Commission 543
Monsanto Co., David S. J. Brown, statement 548

H.R. 5758:

American Federation of Labor and Congress of Industrial Organizations, statement 549

H.R. 5764:

Committee for 806.30 and 807, Inc., Cameron Clark, Jr., statement 550
Eden Toys, Inc., David A. Miller, letter and attachments 550
Ideal Toy Corp., Lionel A. Weintraub, letter 561
Hasgrove Industries, Inc., Alan G. Hassenfeld, telegram 560

H.R. 5786:

U.S. International Trade Commission 562
Hon. Les AuCoin, a Representative in Congress from the State of Oregon, statement 571
Hon. Ron Wyden, a Representative in Congress from the State of Oregon, statement 571
Universal Industries, Inc., Alvin H. Shwartz, letter 571

H.R. 5790:

U.S. International Trade Commission 572
United State-Mexico Chamber of Commerce, Gerard J. Van Heuven, letter 581

H.R. 5811:

U.S. International Trade Commission 582
Pfizer, Inc., Frank Adams, Jr., letter 588

H.R. 5823:

U.S. International Trade Commission 589

H.R. 5839:

U.S. International Trade Commission 595

H.R. 5884:

[No reports or comments were received on this bill.]

H.R. 5891:

American Federation of Labor and Congress of Industrial Organizations, statement 603
International Ladies' Garment Workers' Union, statement 603
Man-Made Fiber Producers Association, Inc., Charlie W. Jones, letter 359

H.R. 5947:

[No reports or comments were received on this bill.]

H.R. 6176:

SSC International, Inc., Sidney Schoenfeld, statement 604

H.R. 6239:

Department of Agriculture 606
Hon. Leon E. Panetta, a Representative in Congress from the State of California, statement 317
Hon. Richard T. Schulze, a Representative in Congress from the State of Pennsylvania, statement 317
J. H. Thompson, Inc., George C. Turner, letter forwarded by Congressman Richard T. Schulze 606

H.R. 6268:

American Federation of Labor and Congress of Industrial Organizations, statement 609

MISCELLANEOUS TARIFF AND TRADE BILLS

MONDAY, MAY 17, 1982

House of Representatives,
Committee on Ways and Means,
Subcommittee on Trade,
Washington, D.C.

The subcommittee met at 2 p.m., pursuant to notice, in room 1100, Longworth House Office Building, Hon. Sam M. Gibbons (chairman of the subcommittee) presiding.

[Press releases announcing the hearings follow:]

[Press Release No. 23, May 11, 1982]

Hon. Sam M. Gibbons (D.-Fla.), Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Announces Hearings on Certain Tariff and Trade Bills, May 17, 1982

The Honorable Sam M. Gibbons (D-Fla.), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee will hold a hearing on May 17, 1982, on certain tariff and trade bills to provide duty-free entry, duty reduction, temporary suspensions of duty, and other bills. The hearing will be held in Room 1100 of the Longworth House Office Building at 2 p.m.

This first phase of hearings will be limited to testimony from Administration witnesses. An additional hearing date will be set for testimony from private-sector witnesses. This date will be announced as soon as possible in light of the full Committee's schedule.

The tariff and trade bills on which testimony will be received are listed below.

DUTY-FREE BILLS

H.R. 4494 (Mr. Goodling): To apply duty-free treatment to Fourdrinier wires suitable for use in capacitor papermaking machines.

H.R. 4806 (Mr. Gejdenson): To eliminate the duty on allyl resins.

H.R. 4844 (Mr. Fuqua, et al.): To amend the Tariff Schedules of the United States to permit the duty-free entry of materials certified by the National Aeronautics and Space Administration as intended to be launched into space or to be spare parts or necessary and uniquely associated support equipment for use in connection with such launches, and for other purposes.

H.R. 5080 (Mr. Ratchford): To extend duty-free treatment to button blanks of casein.

H.R. 5498 (Mr. Schulze): To apply duty-free treatment to p-Hydroxybenzoic acid.

H.R. 5730 (Mr. Gephardt): To apply duty-free treatment to triphenyl phosphate.

H.R. 5758 (Mr. de Lugo): To amend the Tariff Schedules of the United States with respect to the dutiable status of watches and watch movements from insular possessions of the United States.

H.R. 5764 (Mr. Guarini): Relating to the tariff treatment of dolls and certain other toy figures.

H.R. 5768 (Mr. AuCoin): To apply duty-free treatment to athletic footwear imported for use of organizations sponsoring, or providing training for athletic competition for physically or mentally handicapped individuals.

H.R. 5790 (Mr. de la Garza): To provide for the duty-free treatment of imported fresh cantaloupes during limited periods each year, and for other purposes.

H.R. 5839 (Mr. Broyhill): To apply duty-free treatment to hosiery knitting machines.

H.R. 5884 (Mr. Broyhill): To apply duty-free treatment to machines specifically designed for stretch of heat-set texturing of continuous filament man-made fibers.

H.R. 5947 (Ms. Ferraro): To provide for the duty-free entry of perfumes, colognes, and toilet waters imported for use as samples.

H.R. 6268 (Mr. Scheuer): To remove the column 1 rate of duty on certain small toy and novelty items.

DUTY-REDUCTION BILLS

H.R. 3649 (Mr. Hollenbeck): To correct an anomaly in the tariff treatment of ethyl and methyl parathion.

H.R. 4002 (Mr. Studds, et al.): To amend the Tariff Schedules of the United States to provide for a lower rate of duty for certain fish netting and fish nets.

H.R. 4913 (Mr. Gibbons): To reduce the duty on the pesticide commonly known as Dicofol.

H.R. 5490 (Mr. Frank): Relating to the duty on certain knives (commonly known as snap blade tools) having movable parts.

H.R. 5811 (Mr. Downey): To reduce the tariff on caffeine.

H.R. 5891 (Mr. Gibbons): To reduce temporarily the duty on certain hospital and surgical apparel.

DUTY-SUSPENSION BILLS

H.R. 4155 (Mr. Martin of North Carolina): To suspend for 4 years the duty on double-head latch needles.

H.R. 4480 (Mr. Howard): To extend through June 30, 1985, the suspension of import duties on synthetic rutile.

H.R. 4501 (Mr. Nowak): To temporarily suspend the duty of bulk fresh carrots from August 15 through February 15 of each year. (Supersedes H.R. 4075).

H.R. 4602 (Mr. Sawyer): To suspend for 2 years the duty on certain prostheses if imported for charitable therapeutic use, or for free distribution by certain public of private nonprofit institutions.

H.R. 4641 (Mr. Vander Jagt): To provide for a three-year suspension of the duty on copper scale.

H.R. 4642 (Mr. Vander Jagt): To suspend the duty on isomeric mixtures of ethylbiphenyl.

H.R. 4890 (Mr. Evans of Iowa): To suspend the duty on sulfaguanadine, sulfapyridine, and sulfathiozole.

H.R. 5041 (Mr. Guarini): To suspend until January 1, 1985, the duty on natural graphite.

H.R. 5058 (Mr. Trible): To suspend the duty on 1,6-Hexanediol until July 1, 1985.

H.R. 5372 (Mr. Ottinger): To suspend until the close of June 30, 1984, the column 1 rate of duty on unmounted gold leaf.

H.R. 5386 (Mr. Derwinski): To provide for the temporary duty-free treatment of imported hatters' fur and for other purposes.

H.R. 5499 (Mr. Shannon): To continue until the close of June 30, 1986, the existing suspension of duty on Bis-1,3 propanediol.

H.R. 5554 (Mr. Vander Jagt): To suspend for a three-year period the duty on the radio portion of certain clock radios.

H.R. 5823 (Mr. Rostenkowski): To suspend until the close of June 30, 1986, the duty on certain bicycle parts.

OTHER BILLS

H.R. 4134 (Mr. Frenzel): To amend the Tariff Act of 1930 to prohibit the transaction of customs business by nominal consignees, and for other purposes.

H.R. 4690 (Mr. Schulze): To allow articles withdrawn from a bonded manufacturing warehouse to be delivered into successive bonded-storage warehouses located anywhere in the United States for the purpose of exportation, and for other purposes.

H.R. 5707 (Mr. Gibbons): To permit the importation of furs that are the product of the People's Republic of China.

H.R. 6176 (Mrs. Roukema): Relating to the tariff treatment of certain canned mushrooms.

[Press Release No. 25, May 13, 1982]

HON. SAM M. GIBBONS, (D.-FLA.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES CONTINUED HEARINGS ON CERTAIN TARIFF AND TRADE BILLS, MAY 26, 1982

The Honorable Sam M. Gibbons, (D-Fla.), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee will continue its hearing on May 26, 1982, on certain tariff and trade bills to provide duty-free entry, duty reduction, temporary suspensions of duty, and other bills. The hearing will be held in room 2247 of the Rayburn House Office Building at 9:30 a.m.

In an earlier release, dated May 11, 1982, a hearing date of May 17, 1982, was announced for Administration witnesses only. All other interested witnesses will be heard on May 26, 1982. The list of bills to be considered at these hearings was published in that release.

In view of the limited time available, it will be necessary for witnesses to summarize briefly their written statements. The full statement will be included in the printed record. Also, in lieu of a personal appearance, any interested person or organization may file a written statement for inclusion in the printed record.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD

Requests to be heard must be received by telephone to Harriett Lawler [telephone (202) 225-3627] by close of business on Friday, May 21. The request should be followed by a formal written request addressed to John J. Salmon, Chief Counsel, Committee on Ways on Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515.

In order to assure the most productive use of the limited amount of time available to question hearing witnesses, witnesses, scheduled to appear before the Subcommittee are required to submit 75 copies of their prepared statements to the full Committee office, room 1102 Longworth House Office Building, at least 24 hours in advance of their scheduled appearances.

Each statement to be presented to the Subcommittee or any written statement submitted for the record must contain the following information:

(1) The name, full address, and capacity in which the witness will appear (as well as a telephone number where he or his designated representative may be reached);

(2) A list of any clients or persons, or any organization for whom the witness appears; and

(3) A topical outline or summary of the comments and recommendations in the full statement.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE

Persons submitting a written statement in lieu of a personal appearance should submit at least six (6) copies of their statement by the close of business Friday, June 4, to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C. 20515. If those filing written statements for the the record of the printed hearing wish to have their statements distributed to the press and the interested public, they may submit 50 additional copies for this purpose if provided to the Committee during the course of the public hearing.

[Press Release No. 26, May 20, 1982]

HON. SAM M. GIBBONS, (D.-FLA.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES ADDITIONAL TARIFF AND TRADE BILLS FOR CONSIDERATION AT THE PREVIOUSLY ANNOUNCED HEARINGS OF MAY 26, 1982

The Honorable Sam M. Gibbons, (D-Fla.), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee will consider two bills, in addition to the previously published list, at its hearing on May 26, 1982, on certain tariff and trade bills to provide duty-free entry, duty reduction, duty increase, temporary suspensions of duty, and other customs threatment. The hearing will be held in room 2247 of the Rayburn House Office Building at 9:30 a.m.

The two additional bills are listed below:

DUTY-INCREASE BILL

H.R. 6239 (Mr. Panetta): To amend the Tariff Schedules of the United States to provide for rates of duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations.

DUTY-FREE BILL

H.R. 6396 (Mr. Gibbons): A bill to provide for the duty-free treatment of certain needlecraft display models, and for other purposes.

The other bills to be heard on May 26, 1982, are listed in the Subcommittee press release dated May 11, 1982.

In view of the short notice of the addition of these bills to the agenda for May 26, Administration agencies will be asked to submit written comments. If necessary, and in light of the full Committee's schedule, the Subcommittee may be able to hear at a later date any interested witnesses who are unable to arrange to testify on May 26.

It will be necessary for witnesses to summarize briefly their written statements. The full statement will be included in the printed record. Also, in lieu of a personal appearance, any interested person or organization may file a written statement for inclusion in the printed record.

The information below is that which was earlier provided concerning the May 26 hearing. The Subcommittee will make every effort to accommodate witnesses or testimony applicable to the two additional bills.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD

Requests to be heard must be received by telephone to Harriett Lawler [telephone (202) 225-3627] by close of business on Friday, May 21. The request should be followed by a formal written request addressed to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102, Longworth House Office Building, Washington, D.C. 20515.

In order to assure the most productive use of the limited amount of time available to question hearing witnesses, witnesses scheduled to appear before the Subcommittee are required to submit 75 copies of their prepared statements to the full Committee office, room 1102 Longworth House Office Building, at least 24 hours in advance of their scheduled appearances.

Each statement to be presented to the Subcommittee or any written statement submitted for the record must contain the following information:

(1) The name, full address, and capacity in which the witness will appear (as well as a telephone number where he or his designated representative may be reached);

(2) A list of any clients or persons, or any organization for whom the witness appears; and

(3) A topical outline or summary of the comments and recommendations in the full statement.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE

Persons submitting a written statement in lieu of a pesonal appearance should submit at least six (6) copies of their statement by the close of business Friday, June 4, to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102, Longworth House Office Building, Washington, D.C. 20515. If those filing written statements for the record of the printed hearing wish to have their statements distributed to the press and the interested public, they may submit 50 additional copies for this purpose if provided to the Committee during the course of the public hearing.

[Press Release No. 28, May 24, 1982]

HON. SAM. M. GIBBONS (D., FLA.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES CHANGE OF TIME AND LOCATION FOR HEARINGS ON TARIFF AND TRADE BILLS ON MAY 26, 1982

The Honorable Sam M. Gibbons (D., Fla.), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee hearings of May 26, 1982, to receive testimony from the private sector on various tariff and trade bills (listed in press releases No.

23 and No. 26) will be held in room 1100, Longworth House Office Building beginning at 10 a.m.

Chairman **Gibbons**. This is a meeting of the Trade Subcommittee of the Ways and Means Committee.

The purpose of this hearing, as announced by the Trade Subcommittee on May 11, 1982, is to hear administration testimony on 37 miscellaneous trade and tariff bills.

All other witnesses will be heard on May 26, 1982, beginning at 9:30 a.m., in room 2247.

That is in the Rayburn Building.

The following adjustments are made in today's agenda:

H.R. 5758, which deals with the imports of watches from insular possessions, will not be heard today.

H.R. 4134, which deals with customs administration of nominal consignees, will be replaced by H.R. 5170, which is very similar, but which supersedes H.R. 4134.

We will proceed through the bills in the order on the press release of May 11.

We have invited the International Trade Commission to be represented at the witness table in a supporting role to help with questions and data.

If the administration witnesses are ready, and the ITC representative is ready, we can proceed.

The first bill we will take up is bill No. 4494, by Mr. Goodling.

STATEMENT OF BRUCE JON MILLER, DIRECTOR, CONSUMER GOODS AND AUTOMOTIVE INDUSTRIES DIVISION, INTERNATIONAL TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE, ACCOMPANIED BY GEORGE J. WEISE, OFFICE OF TARIFF AFFAIRS, U.S. INTERNATIONAL TRADE COMMISSION; RICHARD G. MEIER, DEPUTY ASSISTANT U.S. TRADE REPRESENTATIVE FOR GATT AFFAIRS, OFFICE OF THE U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT; BARBARA A. STEINBOCK, OFFICE OF INTERNATIONAL SECTOR POLICY, DEPARTMENT OF COMMERCE; ARTHUR I. RETTINGER, GENERAL ATTORNEY, OFFICE OF THE CHIEF COUNSEL, U.S. CUSTOMS SERVICE; AND KERRY E. REYNOLDS, INTERNATIONAL ECONOMIST, U.S. DEPARTMENT OF AGRICULTURE

Mr. **Miller**. I am Bruce Miller, Director of the Consumer Goods and Automotive Industries Division at Commerce.

With me is George Weise, from the U.S. International Trade Commission, Mr. Richard Meier, from USTR, Barbara Steinbock, from the Department of Commerce, Art Rettinger, from Customs, and Kerry Reynolds, from Agriculture.

Chairman **Gibbons**. Fine.

Mr. **Miller**. I will address most of the bills, but when I do not, one of these other gentlemen will.

Chairman **Gibbons**. Fine.

Mr. **Miller**. Also, with your permission, I would like to make a general point which relates to all of the proposed legislation, and that is that the administration believes that the effective date of any change in the tariff should be at least 15 days and preferably 30 days after the date of enactment.

Such a provision would allow the Customs Service time to notify its field offices and the public of the details of the tariff changes.

Chairman **Gibbons**. That certainly sounds reasonable, and where it is appropriate, we will try to do that.

Mr. **Miller**. OK. Then with regard to H.R. 4494, to apply duty-free treatment to Fourdrinier wire:

The administration has no objection to the bill, as amended, to assure that duty-free status is applied only to Fourdrinier wire for capacitor papermaking machines.

We believe some technical amendments are needed, also, to assure that rates and duties on the Fourdrinier wire which are not subject to the duty elimination continue as proclaimed pursuant to the MTN.

There is no domestic production of Fourdrinier wire for capacitor papermaking machines. But there is domestic production of Fourdrinier wire for papermaking machinery other than the capacitor type. We are asking for a slight change in the bill.

Chairman **Gibbons**. What is Fourdrinier wire?

Mr. **Weise**. I am George Weise, from the International Trade Commission.

This is somewhat detailed. I am a lawyer, not a product expert.

Fourdrinier wire suitable for use in capacitor papermaking machines is, like other types of metal Fourdrinier wire, a finely woven wire screen that has been welded into a continuous belt. It is made on looms, in a variety of weaves, of either stainless steel or bronze, and is fitted on the rolls of a paper machine. In the papermaking process, water and fibers are deposited on this screen and as the water partially drains off, the remaining fibers interlace and form a moist web of paper fiber of near-uniform consistency.

Fourdrinier wire used for making capacitor paper is distinguished from other types of Fourdrinier wire by its mesh count.

Chairman **Gibbons**. Where do we import most of this?

Mr. **Weise**. West Germany and France.

These countries account for 75 and 9 percent respectively, of imports of this particular item; 84 percent of the total imports are from these sources.

Chairman **Gibbons**. Thank you.

All right. We will go next to H.R. 4806, to eliminate the duty on allyl resins.

Mr. **Miller**. Mr. Chairman, the administration has no objection to enactment of H.R. 4806, were the bill amended to provide for a 2-year duty suspension rather than a permanent duty elimination, and were the bill amended to apply only to allyl prepolymers.

Chairman **Gibbons**. What kind of resins are these? What are these used for? The reason I ask these questions, people are always asking me. I need some idea.

Mr. **Weise**. Once again, I will address that, Mr. Chairman.

Chairman **Gibbons**. Get a little closer to that mike.

Mr. **Weise**. The prepolymer resins are used to make molding compounds by combining them with fillers and other additives. The resins are usually sold as fusible prepolymers to plastics fabricators which incorporate reinforcing fibers, fillers, flame retardants, and other additives to make the molding compounds.

These allyl molding compounds are normally sold to an end user who then converts them to an infusible, thermoset allyl polymer which is usually an integral part of an electrical electronic component.

Prepolymer resins are also used by the electrical/electronic industry to make components containing the final plastic product, which is an infusible thermoset resin.

They are also used in such other applications as preimpregnated glass cloths and papers, and sealants for metal castings.

Chairman GIBBONS. Where do they come from?

Mr. WEISE. Japan is the principal source.

Chairman GIBBONS. All right. Any other comments?

H.R. 4844.

STATEMENT OF S. NEIL HOSENBALL, GENERAL COUNSEL, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Mr. HOSENBALL. I am Mr. Hosenball.

I have a written statement which I have submitted to the subcommittee that I would like to summarize.

Chairman GIBBONS. The entire statement will be in the record at this point. You may summarize.

Mr. HOSENBALL. I am pleased to appear before the subcommittee to discuss the provisions of H.R. 4844:

> To amend the Tariff Schedules of the United States to permit the duty-free entry of materials certified by the National Aeronautics and Space Administration as intended to be launched into space or to be spare parts or necessary or uniquely associated support equipment for use in connection with such launches, and for other purposes.

This bill, which was recommended to the Speaker of the House of Representatives by the NASA Administrator, Mr. Beggs, in his letter of August 28, 1981, has been technically amended, before its introduction as H.R. 4844, to accord with the customs and practices followed in the Tariff Schedules of the United States, including its headnotes. We believe that H.R. 4844, if enacted, will achieve the purpose that we seek to achieve.

In essence, we believe that the importation of spacecraft and other payloads procured abroad by users of the Space Shuttle and imported for the purpose of being launched into space, should not be subject to U.S. import duties. We further believe that such a result should be predictable at the time the launch services agreement with a user is being executed. NASA should be able to assure a user at the negotiation table that his payload, using the NASA launch system, may be brought into this country duty free for the purpose of that launch.

The current situation where a user may be uncertain as to whether import duties will be imposed on his payload and uniquely associated support equipment, in our view, serves as a disincentive for users of our launch vehicle systems. The imposition of import duties on spacecraft and related support equipment, resulting in an increased cost to the user, may tip the balance so that the user will select the European Space Agency's *Ariane* launch vehicle, to the disadvantage of U.S. industries, which produce materials and provide services for NASA launches.

We also believe that H.R. 4844 would assist NASA in attracting worldwide use of the Space Shuttle at reasonable cost for the purpose of exploring and using space. The bill deals not only with materials to be launched into space by NASA, but also materials that are returned from space by a NASA launch vehicle. We were concerned that the retrieval of a payload that had been free-flying in space and brought back to the United States by the orbiter, would be considered an importation and, therefore, subject to duty. The bill would make it clear that such a return of materials would not be considered an importation and an entry of materials would not be required.

The bill also permits the duty-free entry of the payloads "necessary and uniquely associated support equipment for use in connection with the launch into space." Here the intent was to permit "necessary and uniquely associated support equipment," and I emphasize those words, to be brought into the United States without payment of duty.

It was our thinking that if a user of NASA's launch vehicle system should provide a payload for launch—where the user is a foreign or domestic person or entity, and whether the user is governmental or commercial in nature—that user should be permitted to bring into the United States duty free necessary and uniquely associated equipment for the payload and its launch. It is clear that these qualifying words are subject to interpretation.

The Administrator of NASA has the authority, if the bill is enacted, to determine that a particular piece of support equipment brought into the United States by a user is necessary and unique with respect to a payload launch into space. In applying the standard, we believe that the Administrator of NASA will take into account whether the user procures the particular support equipment as a part of a system to be launched into space; whether the support equipment is designed, manufactured, assembled, or modified so that it performs a highly unusual function as associated support equipment; whether the support equipment may be purchased off-the-shelf or as a catalog item in the United States; and the cost of the support equipment, among other factors.

A second concern to NASA that generated the recommendation that H.R. 4844 be enacted, was NASA's statutory authority to cooperate with foreign governments in space activities—42 U.S.C. 2451, 2473, and 2475. The concern arose in the procurement by NASA of one set of Spacelab units from the European Space Agency [ESA] and the procurement by NASA of three remote manipulator systems [RMS] units from Canada.

Under our cooperative agreements with ESA and Canada, ESA and Canada have provided as a gift to the United States the use of the first Spacelab unit and title to the first RMS unit. Pursuant to these cooperative agreements, ESA and Canada had invested millions of dollars in the development of the first unit, but under the cooperative agreement, these research and development costs will never be charged to the U.S. Government in NASA's procurement of the additional units.

Although the gift of the first units was brought in duty free under the current U.S. Tariff Schedules, NASA's procurement of the additional Spacelab and RMS units will incur substantial import duties when those units are imported into the United States beginning in 1982 and extending through 1984, unless H.R. 4844 is enacted.

NASA had not anticipated that the importation of the Spacelab and RMS units procured would be subject to duty and had sought the approval from the Department of Commerce of the use of the exemption in the Educational, Scientific, and Cultural Materials Importation Act of 1966, in January 1979, and we resubmitted an application for duty-free entry in June 1980. In March 1981, the Department of Commerce denied both of our applications under that act. We believe that the procured Spacelab and RMS units should be permitted to be brought in duty free so that NASA appropriated funds can be devoted to the exploration and use of space. The Treasury Department has been very helpful in permitting, temporarily, the duty-free entry of the procured Spacelab and RMS units until the end of this session of Congress. Thus, we have been able to use our appropriated funds this fiscal year for the purposes outlined in the NASA charter rather than dissipate our funds to the payment of import duties on the Spacelab and RMS.

In conclusion, I would like to point out that we have sought the review and approval of the bill from various executive agencies. The Department of Commerce has been very helpful in reviewing our proposals for duty-free entry, and in seeking the review of the draft legislation by the appropriate committees of the Industry Sector Advisory Committee for Trade Policy Matters.

We have also met on several occasions with representatives from the Bureau of Customs to ascertain that the bill would be technically correct and not objectionable from their point of view, and, of course, the Office of Management and Budget sought the comment of Government departments and agencies, and we understand no negative comments have been received.

Mr. Chairman, this concludes my prepared statement.

[The prepared statement follows:]

STATEMENT OF S. NEIL HOSENBALL, GENERAL COUNSEL, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Mr. Chairman and members of the subcommittee: I am pleased to appear before the Subcommittee to discuss with you the provisions of H.R. 4844, "To amend the Tariff Schedules of the United States to permit the duty-free entry of materials certified by the National Aeronautics and Space Administration as intended to be launched into space or to be spare parts or necessary or uniquely associated support equipment for use in connection with such launches, and for other purposes."

This bill, which was recommended to the Speaker of the House of Representatives by the NASA Administrator, Mr. Beggs, in his letter of August 28, 1981, has been technically amended, before its introduction as H.R. 4844, to accord with the customs and practices followed in the Tariff Schedules of the United States including its headnotes. We believe that H.R. 4844, if enacted, will achieve the purpose that we seek to achieve.

We have found that the Tariff Schedules of the United States provide no specific exemption from duty for materials that come into the United States to be launched by NASA into space or to be retrieved from space. In the past, users of NASA launch vehicles had to seek, under the Tariff Schedules, a particular exemption for their payload. Many users, but not all, were able to rely on such exemptions as are provided under the Educational, Scientific, Cultural Materials Importation Act of 1966 and those parts of the Tariff Schedules which relate to the importation of articles admitted temporarily free of duty under bond, and provisions relating to the importation of articles owned by foreign governments or international organizations. Although most of the applications concerning spacecraft to be launched by

NASA have resulted in duty-free entry, in some caes there has been uncertainty and long delays and significant administrative burdens.

With the Space Shuttle becoming operational with the fifth flight in November 1982, we believe there is the potential for a substantial increased domestic and international use of our launch vehicles. There will be an increased importation of payloads for launch on Shuttle, both payloads that are deployed and those payloads that are to remain attached to the Shuttle and operated in space and returned.

In essence, we believe that the importation of spacecraft and other payloads procured abroad by users of the Space Shuttle and imported for the purpose of being launched into space, should not be subject to U.S. import duties. We further believe that such a result should be predictable at the time the launch services agreement with a user is being executed. NASA should be able to assure a user at the negotiation table that his payload, using the NASA launch system, may be brought into this country duty-free for the purpose of that launch. The current situation where a user may be uncertain as to whether import duties will be imposed on his payload and uniquely associated support equipment, in our view, serves as a disincentive for users of our launch vehicle systems. The imposition of import duties on spacecraft and related support equipment, resulting in an increased cost to the user, may tip the balance so that the user will select the European Space Agency's Ariane launch vehicle, to the disadvantage of U.S. industries which produce materials and provide services for NASA launches.

We also believe that H.R. 4844 would assist NASA in attracting worldwide use of the Space Shuttle at reasonable cost for the purpose of exploring and using space.

The bill deals not only with materials to be launched into space by NASA, but also materials that are returned from space by a NASA launch vehicle. We were concerned that the retrieval of a payload that had been free-flying in space and brought back to the United States by the Orbiter, would be considered an importation and, therefore, subject to duty. The bill would make it clear that such a return of materials would not be considered an importation and an entry of materials would not be required.

The bill also permits the duty-free entry of the payloads "necessary and uniquely associated support equipment for use in connection with the launch into space." Here the intent was to permit "necessary and uniquely associated support equipment," and I emphasize those words, to be brought into the United States without payment of duty. It was our thinking that if a user of NASA's launch vehicle system should provide a payload for launch (whether the user is a foreign or domestic person or entity, and whether the user is governmental or commercial in nature), that user should be permitted to bring into the United States duty-free necessary and uniquely associated equipment for the payload and its launch. It is clear that these qualifying words are subject to interpretation. The Administrator of NASA has the authority, if the bill is enacted, to determine that a particular piece of support equipment brought into the U.S. by a user is necessary and unique with respect to a payload launch into space. In applying the standard, we believe that the Administrator of NASA will take into account whether the user procures the particular support equipment as a part of a system to be launched into space; whether the support equipment is designed, manufactured, assembled or modified so that it performs a highly unusual function as associated support equipment; whether the support equipment may be purchased off the shelf or as a catalog item in the United States; and the cost of the support equipment, among other factors.

A second concern to NASA that generated the recommendation that H.R. 4844 be enacted, was NASA's statutory authority to cooperate with foreign governments in space activities (42 U.S.C. 2451, 2473 and 2475). The concern arose in the procurement by NASA of one set of Spacelab units from the European Space Agency (ESA) and the procurement by NASA of three Remote Manipulator Systems (RMS) units from Canada. Under our cooperative agreements with ESA and Canada, ESA and Canada have provided as a gift to the United States the use of the first Spacelab unit and title to the first RMS units. Pursuant to these cooperative agreements, ESA and Canada had invested millions of dollars in the development of the first unit, but under the cooperative agreement, these research and development costs will never be charged to the United States Government in NASA's procurement of the additional units. Although the gift of the first units was brought in duty-free under the current U.S. Tariff Schedules, NASA's procurement of the additional Spacelab and RMS units will incur substantial import duties when those units are imported into the United States beginning in 1982 and extending through 1984, unless H.R. 4844 is enacted. NASA had not anticipated that the importation of the Spacelab and RMS units procured would be subject to duty and had sought the approval from the Department of Commerce of the use of the exemption in the Educational, Scientific, Cultural Materials Importation Act of 1966, in January 1979, and we resubmitted an application for duty-free entry in June 1980. In March of 1981, the Department of Commerce denied both of our applications under that Act.

We believe that the procured Spacelab and RMS units should be permitted to be brought in duty-free so that NASA appropriated funds can be devoted to the exploration and use of space. The Treasury Department has been very helpful in permitting, temporarily, the duty-free entry of the procured Spacelab and RMS units until the end of this session of Congress. Thus, we have been able to use our appropriated funds this fiscal year for the purposes outlined in the NASA charter rather than dissipate our funds to the payment of import duties on the Spacelab and RMS.

In summary, H.R. 4844 would permit the duty-free entry of materials to be launched into space or returned from space, including necessary and uniquely associated support equipment, that are (1) imported by non-U.S. Government users of the Space Shuttle or other launch vehicle to be launched into space by NASA pursuant to a launch services agreement with NASA; or (2) imported by NASA and obtained or procured by NASA pursuant to an international cooperative arrangement entered into by NASA and foreign governments or foreign entities pursuant to 42 U.S.C. 2473(c) or 42 U.S.C. 2475; or (3) imported by U.S. Government users (including NASA) of the Space Shuttle or other launch vehicle to be launched into space by NASA.

In conclusion, I would like to point out that we have sought the review and approval of the bill from various Executive Agencies. The Department of Commerce has been very helpful in reviewing our proposals for duty-free entry, and in seeking the review of the draft legislation by the appropriate committees of the Industry Sector Advisory Committee for Trade Policy Matters. We have also met on several occasions with representatives from the Bureau of Customs to ascertain that the bill would be technically correct and not objectionable from their point of view, and, of course, the Office of Management and Budget sought the comment of Government departments and agencies, and we understand no negative comments have been received.

Mr. Chairman, this concludes my prepared statement.

Chairman GIBBONS. Thank you.

Is there any objection from the rest of the administration to NASA's proposal?

If not, we will take up H.R. 5080.

Mr. MILLER. Mr. Chairman, the administration has no objection to the enactment of H.R. 5080. There is no domestic production of casein button blanks. We believe elimination of the duty would remove a tariff anomaly, which places the U.S. producers of buttons at a significant cost disadvantage.

Chairman GIBBONS. All right. Thank you.

Are there any further comments on that bill?

The next one is H.R. 5498 by Mr. Schulze.

Mr. MILLER. The administration would have no objection to the enactment of H.R. 5498 if the bill were changed to provide a 3-year duty suspension rather than permanent elimination.

A temporary suspension of the duty would not appear to have adverse effects on the U.S. domestic industry.

Chairman GIBBONS. All right. How do you pronounce the name of that acid?

Mr. MILLER. P-hydroxybenzoic acid.

Chairman GIBBONS. P-hydroxybenzoic?

Mr. MILLER. Yes, sir.

Chairman GIBBONS. Where does it come from?

Mr. MILLER. We will call on Mr. Weise again.

Mr. WEISE. First, it is used as an antimicrobial agent for cosmetics, food and pharmaceuticals.

It is also used as a monomer in the synthesis of plastics, fibers, and synthetic adhesives and as an intermediate in the production of other organic chemicals such as drugs.

It comes from West Germany, Japan and Taiwan.

Chairman GIBBONS. Any other comment?

All right. We will take up H.R. 5730 by Mr. Gephardt.

Mr. MILLER. Mr. Chairman, the administration would have no objection to enactment of H.R. 5730, provided that duty-free treatment be applied as a 3-year tariff suspension rather than a duty elimination.

A 3-year suspension period would allow a sufficient period to assess the economic effects of the duty-free treatment.

Although there is no production of triphenyl phosphate for commercial consumption, there are two producers that manufacture the product—one for in-house use, and the other in laboratory-size quantities. At this time, these producers should not be adversely affected by a duty suspension.

Chairman GIBBONS. What kind of phosphate is this that makes it so unusual?

Mr. MILLER. Mr. Weise?

Mr. WEISE. You want to know the use again?

It is used principally as a fire-retarding agent and as a plasticizer of cellulose acetate and nitrocellulose, which are used in the manufacture of photographic and other films. TPP reduces the flammability of these films and increases their flexibility, making them safer and easier to handle.

Chairman GIBBONS. Where does it come from?

Mr. WEISE. On this particular product we do not have import data. It is not classified separately. We do not have information with respect to importation of this product.

Chairman GIBBONS. Any other comment?

All right, Mr. Guarini's bill, H.R. 5764.

Mr. MILLER. Mr. Chairman, the administration supports the intent of the bill, H.R. 5764, to allow duty-free importation of stuffed dolls and shells of stuffed dolls and the duty-free importation of stuffed toy figures under 10 cents per inch of height which are not produced in the U.S., provided this can be properly administered.

In addition, we would support a duty elimination for other stuffed toy figures, the duty-free importation of which would not have an adverse economic impact on the U.S. industry.

However, we are not satisfied that the bill, as drafted, will prevent foreign suppliers from using the proposed tariff classification for the importation of articles not intended to be covered by the legislation.

Specifically, we believe that stuffed figures and skins need to be defined more clearly. In addition, clarification is needed of what inanimate objects are intended to be covered by the bill.

Chairman GIBBONS. Do you have any proposed amendments, or do you think it is impossible to clean it up enough?

Mr. MILLER. At this time, Mr. Chairman, we believe that we have not reached full agreement with all the interested parties, but we are willing to continue working on an approach which would be acceptable.

Chairman GIBBONS. All right, sir.

Any other comments about that?

We will take up H.R. 5786, Mr. AuCoin's bill.

Mr. MILLER. Mr. Chairman, the administration sympathizes with the need to make products specifically designed or adapted for the handicapped, less costly for them.

This administration has proposed legislation which you introduced that would result in duty-free entry for products specifically designed or adapted for the handicapped.

However, we have a number of problems with H.R. 5786, as it is presently written.

We would be happy to work with the sponsor of the bill to see if some language could be developed to take account of the administration's problems, and at the same time accomplish the sponsor's purpose in introducing the bill.

Chairman GIBBONS. All right, sir.

Any further comment on this matter?

Let's go to H.R. 5790 by Mr. de la Garza.

Mr. REYNOLDS. My name is Kerry Reynolds, from the Department of Agriculture, and I will speak to that one.

The bill would suspend the 35-percent import duty on fresh cantaloupes entered or withdrawn from warehouse for consumption, during the period January 1 to May 15 in calendar years 1983, 1984, and 1985.

Although cantaloupe imports during these months currently are included in our generalized system of preferences [GSP]; more than 95 percent of U.S. imports are from Mexico, which is denied GSP treatment for the relevant tariff items.

Since 1981 imports totaled more than $18 million, we feel that this commodity has significant value for trade negotiations. Rather than make a unilateral trade concession on cantaloupes at this time, we would prefer to wait until we have received a meaningful reciprocal concession before eliminating the 35-percent duty.

Chairman GIBBONS. All right.

Any other comments on Mr. de la Garza's bill?

Mr. Broyhill's bill, H.R. 5839.

Mr. MILLER. Mr. Chairman, the administration, would have no objection to enactment of H.R. 5839 were the bill amended to exclude single cylinder course gauge knitting machines, and were the bill amended to change the duty elimination to a 3-year suspension duty.

The administration does not object to the suspension of duties on machinery entering TSUS item 670.18, because this item is no longer made in the United States.

However, there are U.S. producers of single cylinder course gauge knitting machines which currently enter the United States under tariff item 670.16.

Chairman GIBBONS. Any other comments?

We will next take up H.R. 5884, by Mr. Broyhill.

Mr. MILLER. Mr. Chairman, the administration has no objection to enactment of H.R. 5884, provided that the bill can be amended to exclude certain machines manufactured in the United States.

We have no objection to lowering the duty on heat-set texturing machinery, since it is not produced in the United States.

However, some U.S. manufacturers do produce stretch-texturing machines, and we would propose to exclude those machines from the coverage of the bill.

Chairman GIBBONS. Any further comments on H.R. 5884?

We will take up H.R. 5947.

Mr. MILLER. Mr. Chairman, the administration is opposed to enactment of the proposed legislation.

We believe that enactment of the legislation as written will lead to a number of administrative problems. Moreover, we believe that the intent of the bill can be accomplished under current statutes. Particularly, we note that the bottling and packaging of these samples could take place in a bonded warehouse or in a free trade zone, and then when the samples are withdrawn, they would pass through Customs under the existing tariff classification for samples.

Chairman GIBBONS. You think this would be pretty difficult to administer; is that right?

Mr. MILLER. Yes, sir.

Chairman GIBBONS. All right.

Any further comments?

We will take up H.R. 6268 by Mr. Scheuer.

Mr. MILLER. Mr. Chairman, the administration is opposed to enactment of H.R. 6268. There is domestic production of certain small toy and novelty items which would be covered by H.R. 6268, such as balloons, marbles, puzzles, die-cast vehicles, models, and other small rack toys.

In addition, many imports are inexpensive copies of domestic designs and compete with more expensive domestic products. It has been reported by manufacturers of practical joke articles that new products are copied by people in as little as 3 weeks from the date of introduction.

The majority of these imports are already eligible for duty-free entry from beneficiary-developing countries under the U.S. generalized system of preferences. Taiwan, Hong Kong, and Korea are major sources of imports. If these countries lose GSP eligibility on these items, it is because they have been graduated from eligibility. It has been determined that they have reached a level of competitiveness that makes it unnecessary for these countries to continue to receive the duty-free GSP status.

Chairman GIBBONS. Any further comment on Mr. Scheuer's bill?

All right, we will take up the duty reduction bills.

The first is H.R. 3649, by Mr. Hollenbeck.

Mr. MILLER. The administration is opposed to enactment of H.R. 3649.

Imports of ethyl and methyl parathion compete directly with domestic production. Therefore, imports are dutiable as competitive insecticides. Assessing the lower noncompetitive rate of duty, as the legislation proposes, would not be appropriate given the existence of domestic production.

We note that while some duties were increased in the complicated conversion of specific rates to ad valorem rates in the elimination of the American selling price and during multilateral trade negotiations, domestic producers also had to bear some duty reductions. On balance, acceptable compromises were developed and negotiated with our trading partners. We are very wary of opening up this carefully balanced package, unless there are overriding reasons to do so. In this case, we believe there are no such overriding reasons.

Chairman **Gibbons**. Any further comments on Mr. Hollenbeck's bill?

We will take up H.R. 4002, by Mr. Studds.

Mr. **Miller**. Mr. Chairman, at this time the administration does not have a position on this legislation.

Chairman **Gibbons**. Any further comments? When do you think you are going to have a position?

Mr. **Miller**. Mr. Chairman, we have undertaken a commitment to endeavor to provide the committee with a position at the time of the public hearings.

Chairman **Gibbons**. All right.

Let's take up H.R. 4913 by Mr. Gibbons.

Mr. **Miller**. Mr. Chairman, the administration would have no objection to enactment of H.R. 4913, provided certain changes were made in the bill. We recommend that H.R. 4913 be amended to provide for a temporary 3-year duty reduction to confirm that the reduction of the duty on Dicofol would have no economic effect on the competitiveness of other pesticides produced in the United States.

We also recommend the deletion of the retroactive application of the lower rate of duty, since its inclusion would establish a costly precedent, and would provide windfall benefits to some importers.

Chairman **Gibbons**. Well, we don't want to do that. We don't want to provide any windfalls.

All right, any other comments?

Let's take up H.R. 5490 by Mr. Frank.

Mr. **Miller**. Mr. Chairman, the administration objects to enactment of H.R. 5490. There is at least one U.S. firm which assembles snap blade knives using foreign components. This firm would be disadvantaged by the enactment of this legislation.

Moreover, the bill would unilaterally reduce tariffs on snap blade knives and parts at a time when the U.S. Government is attempting to obtain substantially equivalent market access from other countries for U.S. exports. The main foreign supplier of snap blade knives and parts is Japan. A unilateral tariff reduction on imports from Japan would be counterproductive during this period of high bilateral trade deficits with Japan.

Chairman **Gibbons**. What is a snap blade knife?

Mr. **Weise**. Snap blade knives consist of a plastic or metal handle enclosing a cutting blade of about 3 to 4 inches in length. By means of an adjustment mechanism incorporated in the handle—a grooved metal frame with teeth on one side and a spring and/or a set screw—the length of the exposed cutting surface may be varied, giving the tool multiple uses.

It is about the size of a pen. You hold it and operate it with your thumb. The blade is lightly scored on one side, so that, with the aid of the adjustment mechanism, the end section of the blade may be easily snapped off, so that a new sharp cutting surface is exposed. The tool is used primarily in cutting wallpaper.

Chairman **Gibbons**. All right, let's take up H.R. 5811 by Mr. Downey.

Mr. **Miller**. Mr. Chairman, the administration is opposed to the legislation as currently drafted. However, we would support legislation which provided for a temporary, 1-year duty reduction to 60-percent ad valorem which we note is the final rate of duty negotiated during the multilateral trade negotiations.

This duty reduction would not begin before the effective data of enactment of the legislation. U.S. industry feels strongly that a permanent reduction of this duty should not be undertaken without seeking a comparable reduction from the European community.

West Germany is the principal source of our imports, and it maintains a high tariff rate of 10.4 percent ad valorem which was not reduced during the Tokyo round. This duty has precluded U.S. exports of caffeine to the European market. Enactment of a temporary reduction would allow time for the member states of the European Community to gather support within the Community for such a reduction if they are interested in gaining further reductions in the U.S. tariff.

If no reduction is possible within the 1-year timeframe, the tariff rate will revert to the rate that would have been in effect had there been no temporary reduction.

Chairman **Gibbons**. Any further comment on Mr. Downey and Mr. Frenzel's bill, H.R. 5811?

We will next take up H.R. 5891 by Mr. Gibbons.

Mr. **Miller**. The administration opposes enactment of H.R. 5891. There are some U.S. producers that manufacture solely in the United States products covered by this bill. These producers would be put at a competitive disadvantage.

If the U.S. producers were to try to overcome this disadvantage, they also would have to assemble their products in Mexico. We note that while these products are subject to control under the multifiber arrangements, none of these products currently are under restraint.

Chairman **Gibbons**. Any further comments on this bill?

All right, the next bill is H.R. 4155 by Mr. Martin of North Carolina.

Mr. **Miller**. Mr. Chairman, the administration has no objection to enactment of H.R. 4155 provided the language of the bill assures that only double-headed latch needles are covered.

In this regard, we recommend some technical changes to clarify the intent of the bill.

Chairman **Gibbons**. What is a double-headed latch needle?

Mr. **Weise**. These needles consist of a shank with a hook at each end. They can be readily distinguished from other hooked machine needles also by the freely swinging latches attached to the shank which close the hooks.

Variations within this configuration are necessary to accommodate differences in machinery yarn or thread employed or type of fabric desired.

It is used in the manufacture of machine-knitted fabric, Mr. Chairman.

Chairman **Gibbons**. Where do we import most of these from?

Mr. WEISE. West Germany, Japan, and Canada account for about 85 percent of U.S. imports.

Chairman GIBBONS. All right.

We will take up H.R. 4480 by Mr. Howard.

Mr. MILLER. Mr. Chairman, the administration has no objection to enactment of H.R. 4480. Suspension of the duty eliminates an unnecessary cost in a resource material for which imports are necessary to meet normal domestic demand.

This cost reduction also aids domestic pigment producers to compete with increasing imports of titanium pigments.

Chairman GIBBONS. All right, any further comments on that bill?

We will take up H.R. 4501 by Mr. Nowak.

Mr. REYNOLDS. Mr. Chairman, the administration opposes H.R. 4501.

This bill would temporarily suspend the duty on bulk fresh carrots from August 15 through February 15 of each year, and thus would provide 6 months of duty-free treatment in the U.S. market for foreign suppliers of bulk carrots, primarily Canada.

This unilateral concession is opposed by our competing domestic producers in four major producing States, California, Texas, Florida, and New York. In fact, delegations of New York growers have urged us to increase this duty on several occasions.

We do not favor providing additional U.S. market access at this time, particularly when Canadian shippers are benefiting from a disparity in currency exchange rates between our two countries that is strongly in their favor.

Chairman GIBBONS. Why are Canadian carrots so cheap?

Mr. REYNOLDS. With the Canadian dollar at 80 cents to the dollar now, that is a competitive advantage for them.

Chairman GIBBONS. Is that the only reason?

Mr. REYNOLDS. The current duty structure, a specific duty does, as I believe the ITC has pointed out in their report to your committee, tend to favor the Canadian shippers of carrots which have been packaged as opposed to the bulk carrots which are coming in with dirt and other materials for which the duty would be charged.

Chairman GIBBONS. Any further comments on the carrot bill?

We will take up H.R. 4602 by Mr. Sawyer.

Mr. MILLER. Mr. Chairman, the administration has no objection to enactment of H.R. 4602 provided that the reference to juvenile amputees and the end use provisions are deleted. This legislation is consistent with the administration draft legislation that was introduced by you which would allow inter alia duty-free importation of products specifically designed and adapted for handicapped persons.

We recommend that the duty-free provisions of H.R. 4602 not be limited to juvenile amputees. We would not object to the broader application of duty-free treatment inasmuch as Customs would have trouble deciding if any particular device were to be used by a juvenile amputee.

Customs also would have trouble administering the end use provisions of the bill; therefore, we recommend deletion of these provisions.

Chairman GIBBONS. Further comments?

Let's take up H.R. 4641 by Mr. Vander Jagt.

Mr. **Miller**. Mr. Chairman, the administration does not object to the intent of H.R. 4641, but we believe that certain changes should be made to assure that the intent of the bill is realized.

Specifically, we propose that the language of the bill be amended to provide for a 3-year suspension of the duty on copper scale entering under TSUS items 603.70, not 603.50 as the bill currently indicates.

Chairman **Gibbons**. Any further comments on the bill?

Let's take up H.R. 4642 by Mr. Vander Jagt.

Mr. **Miller**. Mr. Chairman, the administration has no objection to enactment of H.R. 4642. We are unaware of any domestic production of isomeric mixtures of ethylbiphenyl. U.S. consumers of these mixtures currently rely on imports to satisfy their needs.

Chairman **Gibbons**. Where does it come from?

Mr. **Weise**. Japan.

Chairman **Gibbons**. Any further comment on H.R. 4642?

Let's take up H.R. 4890.

Mr. **Miller**. Mr. Chairman, the administration has no objection to the enactment of H.R. 4890 provided it were amended to provide a fixed period for the suspension.

In this regard, we recommend a 3-year period that would end June 30, 1985. We are unaware of any domestic commercial production of these three products.

I should note that one U.S. company on occasion produces sulfaguanadine for captive use.

The suspension of the duty on these three products would reduce the cost to U.S. purchasers and could contribute to reduced costs to purchasers of medicinals derived from these three chemical products.

A 3-year time period would provide time to assess the economic impact of the duty suspension.

Chairman **Gibbons**. We will take up H.R. 5041 by Mr. Guarini.

Mr. **Miller**. Mr. Chairman, the administration has no objection to enactment of H.R. 5041. Suspension of the duty eliminates unnecessary costs on a resource material for which imports are necessary to meet domestic demand.

Chairman **Gibbons**. Any further comments or objections to Mr. Guarini's bill, H.R. 5041?

We will take up H.R. 5058 by Mr. Trible.

Mr. **Miller**. Mr. Chairman, the administration has no objection to enactment of H.R. 5058 provided the retroactive application of the lower rate of duty is deleted.

We are unaware of any domestic production of 1, 6-Hexanediol. The last domestic producer ceased production in 1981.

We do not believe that imports compete directly with domestic production of readily substitutable chemical intermediates.

Chairman **Gibbons**. Where do we import this from?

Mr. **Weise**. It comes mainly from West Germany, Mr. Chairman.

Chairman **Gibbons**. Where else?

Mr. **Weise**. West Germany.

Chairman **Gibbons**. Thank you.

All right, take up Mr. Ottinger's bill, H.R. 5372.

Mr. **Miller**. Mr. Chairman, the administration is opposed to enactment of H.R. 5372. We believe enactment of H.R. 5372 will have adverse impact on domestic producers of unmounted gold leaf. At this time, there appears to be an adequate supply of domestic alloy produced gold leaf.

Chairman Gibbons. Let's take up Mr. Derwinski's bill, H.R. 5386.

Mr. Miller. Mr. Chairman, the administration has no objection to enactment of H.R. 5386. We note that hoods, a semifinished product, made from the hatters' fur, already enter the United States duty free under the U.S. generalized system of preferences.

Therefore, a duty reduction on the hatters' fur will enable U.S. manufacturers of hoods and hats from hatters' fur to compete against imports.

Chairman Gibbons. All right, let's take up H.R. 5499 by Mr. Shannon.

Mr. Miller. Mr. Chairman, the administration has no objection to the enactment of H.R. 5499 provided the suspension period is effective only until June 30, 1984.

Currently, the U.S. company which developed this chemical, known as TMAB, and which licenses its production overseas now plans to undertake commercial production in the United States. An extension of the suspension action on TMAB would ensure adequate an inexpensive supplies to U.S. purchasers until domestic production is on stream. We believe the suspension should be allowed to lapse once domestic production begins. We understand that the domestic production will come on stream by June 30, 1984.

Chairman Gibbons. How do you pronounce this one?

Mr. Miller. I will give it a shot, Mr. Chairman, it is (4-aminobenzoate)-1,3 propanediol(trimethylene glycol di-p-aminobenzoate.)

Chairman Gibbons. Where does it come from?

Mr. Weise. It comes from Sweden, Mr. Chairman.

Chairman Gibbons. All right.

Let's take up H.R. 5554 by Mr. Vander Jagt.

Mr. Miller. Mr. Chairman, the administration has no position on H.R. 5554 at this time.

This bill presents a number of complex issues that need further study.

The sponsor of the bill has proposed a meeting for next week that may clarify the issues. We will be happy to work with this staff on this bill.

Chairman Gibbons. All right, a fair deal.

H.R. 5823, by Mr. Rostenkowski.

Mr. Miller. Mr. Chairman, the administration supports enactment of H.R. 5823. Continued suspension of duty would benefit domestic bicycle manufacturers who rely on imported parts. None of the bicycle parts and accessories covered by the legislation are manufactured in the United States.

We believe that the continued suspension of duties is important in preserving the competitiveness of U.S. bicycle manufacturers.

Chairman Gibbons. Where do we import most of them from?

Mr. Weise. They import the parts from West Germany, Japan, and Taiwan.

Chairman Gibbons. All right, we will take up H.R. 5170 by Mr. Frenzel.

Mr. Rettinger. This bill basically runs into three parts. Section 1 of the bill would classify certain proprietary business documents as intangible goods, and therefore, they would not be subject to the entry requirements of the Tariff Act of 1930.

Right now, these goods, business documents, are duty-free under item 807.10, and under the bill, item 807.10 would be eliminated.

To the extent that the change would appear to facilitate the international transportation of these proprietary documents, we would support the bill.

However, we do note there might be some minor administrative problems with regard to what is an intangible document vis-a-vis blueprints versus certain other documents, some of which may be dutiable, but they are not insurmountable.

I will jump, if I may, to section 3 of the bill which would amend section 484(h) of the Tariff Act of 1930 to require that a carrier have reasonable cause to believe that the person he certifies on a carrier certificate, who, would then be authorized to make entry of the merchandise under section 483 of the act, have reasonable cause to believe the accuracy of this statement.

To the extent that this codifies a Customs Service decision, 80-125, we would have no objection to its enactment.

The third portion of the bill is in section 2 and section 4 and is basically designed to assure that only licensed customhouse brokers conduct Customs business on behalf of the beneficial owners of imported merchandise. Currently a class of consignees known in the courts as nominal consignees can enter merchandise as though they were the true owners.

The Customs Service supports the purposes of these two sections, but in the manner in which they are written we would have administrative difficulty in their enforcement. Consequently we have a suggested amendment, if I may offer it, to section 2, which would embody both section 2 and section 4 and eliminate the change to section 483 of the Tariff Act and section 641 of the Tariff Act.

The change would be to section 484 of the Tariff Act, and after consultation with supporters of the bill, I believe would accomplish the bill's purposes.

If I may. That section 2 should be changed to read as follows: Current section 484(a)(2)(B) of the Tariff Act of 1930 as amended, is redesignated 484(a)(2)(B)(1) and a new section 484(a)(2)(B)(2) is added to read as follows:

> Notwithstanding any other provision of law, the documentation required by paragraph (1)(B) of this subsection, when for a commercial shipment, shall be filed only by the title-holder, purchaser or ultimate consignee of the merchandise, or by a person holding a valid license under the provisions of section 641 of this act, as amended.

Chairman GIBBONS. You be sure to give the clerk a copy of that so it is exactly in the record.

Mr. RETTINGER. She has a copy.

Chairman GIBBONS. Any further comments on this legislation?

Let us go to H.R. 4690 by Mr. Schulze.

Mr. RETTINGER. Mr. Chairman, the administration supports H.R. 4690. The amendment proposed by the bill would facilitate the movement, for storage, of articles withdrawn from a bonded manufacturing warehouse without adversely impacting upon the interests of the Federal Government. Currently under section 311 of the Tariff Act, articles may be manufactured from imported material subject to Internal Revenue tax free of duty or Internal Revenue tax so long as they are intended for exportation. However, the way the act currently reads, they must be sent for delivery to an exterior port or bonded warehouse of an exterior port for the sole purpose of immediate export therefrom. The bill would remove the words "at an exterior port" and "immediate" in order to facilitate the storage and/or transportation of these goods.

Chairman **GIBBONS**. Any further comment?

Let us take up H.R. 5707.

Mr. **MILLER**. Mr. Chairman, the administration supports enactment of H.R. 5707. We suggest that the reference to furs in the legislation be changed to fur skins, raw or dressed, to bring the language into conformity with that in the tariff schedules.

Chairman **GIBBONS**. Fine. Let us take up the last bill now, H.R. 6176.

Mr. **REYNOLDS**. The administration opposes enactment of H.R. 6176. This bill would allow for the tariff on canned mushrooms entered in November 1980 to be reliquidated at the tariff rate existing on October 3, 1980, if such mushrooms were purchased under a forward fixed price sales contract concluded before August 18, 1980, and if a bill of lading was issued before October 17, 1980. The Presidential Proclamation 4801 dated October 29, 1980 provided import relief for the U.S. canned mushroom industry by imposing higher tariffs on imports for a 3-year period beginning November 1, 1980. We believe granting a broad exemption to the higher tariffs undermines the relief that was intended by the Presidential proclamation. The U.S. canned mushroom industry is still confronted by low prices, and import competition, although somewhat reduced, remains substantial.

Chairman **GIBBONS**. Any further comments on the mushroom bill?

Mr. **PEASE**. What is "reliquidation" of imports of canned mushrooms? What does that mean?

Mr. **REYNOLDS**. That means we pay them back some of the tariff.

Mr. **PEASE**. Pay whom back?

Mr. **REYNOLDS**. The importers.

Chairman **GIBBONS**. I do not think this bill is going to go very far.

Mr. **PEASE**. In other words, I should not waste my time on it.

Chairman **GIBBONS**. Well, unless there are any further comments, this concludes the administration's portion of the subcommittee's hearings on miscellaneous tariff and trade bills. We will continue this hearing with the private sector witnesses on Wednesday, May 26, at 9:30 a.m., in room 2247 of the Rayburn House Office Building.

The meeting is adjourned.

[Whereupon, at 3:10 p.m., the subcommittee was adjourned, to reconvene at 9:30 a.m., Wednesday, May 26, 1982.]

MISCELLANEOUS TARIFF AND TRADE BILLS

WEDNESDAY, MAY 26, 1982

House of Representatives,
Committee on Ways and Means,
Subcommittee on Trade,
Washington, D.C.

The subcommittee met at 10:25 a.m., pursuant to notice, in room 1100, Longworth House Office Building, Hon. Sam M. Gibbons (chairman of the subcommittee) presiding.

Chairman Gibbons. This hearing was announced by the Subcommittee on Trade on May 13 to hear testimony on miscellaneous tariff and trade bills. At earlier hearings on May 17, we received the testimony of the administration witnesses.

The administration does, however, plan to testify again today on certain bills. We will receive the testimony of the administration witnesses first and then proceed to other witnesses.

If the persons speaking for the administration today are ready, we will proceed. We have a list of those bills on which we believe you plan to testify. Let's go through these bills.

The first is H.R. 5758 by Mr. de Lugo.

STATEMENT OF BRUCE JON MILLER, DIRECTOR, CONSUMER GOODS AND AUTOMOTIVE INDUSTRIES DIVISION, INTERNATIONAL TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE, ACCOMPANIED BY GEORGE J. WEISE, OFFICE OF TARIFF AFFAIRS, U.S. INTERNATIONAL TRADE COMMISSION; BARBARA A. STEINBOCK, OFFICE OF INTERNATIONAL SECTOR POLICY, DEPARTMENT OF COMMERCE; RON GERDES, U.S. CUSTOMS SERVICE; AND KAREN GLAZER, OFFICE OF THE U.S. TRADE REPRESENTATIVE

Mr. Miller. I am Bruce Miller, Director of the Consumer Products and Automotive Industries Division, Office of International Sector Policy at the Department of Commerce. I will speak on behalf of the administration.

Chairman Gibbons. Are you for or against the bill?

Mr. Miller. Mr. Chairman, on the watch bill, the administration does not have a position on this legislation at this time. An interagency task force is examining this proposal and other options.

This work is still in progress. We would request that this legislation be deferred until this work is completed.

Chairman Gibbons. Can you give me some completion date?

Mr. Miller. At this moment, I can't, Mr. Chairman. We can check with the people involved and see if we can supply that information to you and the staff.

Chairman **Gibbons**. That would be most appreciated.

Let's go, then, to H.R. 5764, by Mr. Guarini.

Mr. **Miller**. Mr. Chairman, the administration would not object to the enactment of this bill, were it amended as follows: We would support a temporary, 3-year duty suspension on the import of stuffed dolls, doll clothes, stuffed or filled toy figures, inanimate objects, and skins of toy figures of animate or inanimate objects.

Suspension of the duty, rather than the elimination, preserves negotiating leverage for these items which are either not produced in the United States or produced in limited quantities.

We believe the limited production will not be adversely affected by the proposed legislation.

The administration does not support a duty suspension for stuffed toy figures of animate objects valued at over 10 cents per inch of height, which are produced in the United States. We believe this item has some negotiating value which we wish to preserve. We are working with the ITC and customs, Mr. Chairman, to develop appropriate clarifying amendments to the tariff schedules to facilitate administration of these provisions.

Chairman **Gibbons**. Thank you.

H.R. 5786, by Mr. AuCoin.

Mr. **Miller**. Mr. Chairman, the administration has not taken a position on the proposed legislation, but wishes to register the following concerns:

However, before registering those concerns, the administration wishes to note the intent of the legislation is consistent with the President's urging of the private sector to contribute more to the less fortunate and that the administration is aware of the benefits that the proposed legislation is intended to provide to the handicapped.

However, there is some concern within the administration about a narrowly written bill. That is, one limited to certain organizations and products, as it has the appearance of special-interest legislation.

Additionally, representatives of the domestic footwear industry have informed the administration of their readiness to fulfill through donations the needs of the Special Olympics, thus bringing into question the extent to which the legislation will further promote charitable contributions benefiting the handicapped.

Broadening the proposed legislation to cover all similarly situated organizations and products raises other concerns, such as the effect on revenues, the effect on U.S. industry and the ability of U.S. industry to meet the needs of charitable organizations, the ability of the U.S. Customs Service to administer the provisions so that products imported for use of charitable organizations are not diverted to commercial resale. A final concern is whether, as a matter of U.S. tariff policy, the U.S. Government should assess duties on any import for the use of any charitable organizations and not intended for commercial sale.

Chairman **Gibbons**. Are you going to support the bill or not?

Mr. **Miller**. In view of the fact that we really don't have answers to a number of these concerns, Mr. Chairman, such as the likely effect on revenues or the likely effect on domestic production, we feel at this time that the administration is not going to take a position.

Chairman **Gibbons**. Not going to take a position? When are you going to have a position? This is not a new piece of legislation, at least the idea is not new.

Mr. **Miller**. Mr. Chairman, we believe this legislation does raise issues we have not examined before, and some of these concerns are new, such as the question of whether, as a matter of U.S. tariff policy, the U.S. Government should assess duties on imports used by charitable organizations.

Chairman **Gibbons**. I realize it is a policy question. That is why we have invited you here. All I am asking you is when are you going to have a position? I don't want to go on stalling; I don't want to be involved in any stalling, but I just want to know when you are going to take a position?

Are you for the bill, against the bill? Then the committee will have to make up its mind as to whether we are going to pass it or not.

Give me a deadline or do you want me to give you a deadline?

Mr. **Miller**. Certainly, Mr. Chairman, if you give us a deadline, then we will——

Chairman **Gibbons**. All right, the middle of July.

Mr. **Miller**. OK.

Chairman **Gibbons**. That is July 15.

Let's take up H.R. 5884 by Mr. Broyhill.

Mr. **Miller**. The administration has no objection to lowering the duty on heat-set texturing machinery since it is not produced in the United States. There is one manufacturer of a different type of stretch texturing machinery which we believe would not be covered by this bill if the bill were amended slightly.

Currently, the bill says stretch or heat-set texturing machinery. If this read stretch, heat-set texturing machinery, we believe the bill would be unobjectionable. We do propose, however, that the duty be suspended for a 3-year period rather than permanently eliminated.

Chairman **Gibbons**. H.R. 6268 by Mr. Scheuer.

Mr. **Miller**. With regard to H.R. 6268, the administration would support a 3-year duty suspension on certain small toy and novelty items provided for in the tariff schedules in subparts (d) and (e) of part 5 of schedule 7 with the exception of balloons, marbles, dice, and dye-cast vehicles.

We also would note that the temporary duty suspension should apply to those items valued not over 5 cents per unit.

In addition, the administration would support a temporary 3-year duty suspension on jewelry provided for in subpart (a) of part 6 of schedule 7, except parts valued at over 1.6 cents per piece, if such items are individually encapsulated for distribution through bulk vending machines.

We believe reducing the coverage of H.R. 6268 in this way would eliminate any overlap with domestically produced rack toys and would assure that the domestic industry would not be adversely affected by duty suspension.

Likewise, the requirement that articles of jewelry valued not over 1.6 cents per piece be encapsulated for distribution through bulk vending machines is intended to avoid any unanticipated impact on domestic producers of costume jewelry.

We favor a duty suspension rather than a duty elimination in order to preserve the potential negotiating value of these items.

Chairman GIBBONS. Let's take up a duty reduction bill by Mr. Studds, H.R. 4002.

Mr. MILLER. Mr. Chairman, the administration is opposed to enactment of H.R. 4002. The effect of H.R. 4002 is to enact immediately a 60-percent tariff cut made during the Tokyo Round of multilateral trade negotiations.

Currently, this reduction is scheduled to be enacted over several years, and reach 17 percent on January 1, 1989. The staging was designed to give the fish netting industry the opportunity to adjust to import competition before the full 60-percent reduction is completed.

The domestic industry is now moving to adjust to the changed competitive position. We believe a full 60-percent duty reduction enacted immediately would damage the domestic industry's ability to enter the market successfully with its new improved products.

We note also that we negotiated reciprocal reductions in the MTN for the planned stage tariff reduction. We would prefer that any acceleration in the duty reduction take place in the context of negotiations where equivalent benefits can be negotiated for U.S. exporters.

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. What is the value of the duties that you estimate that might be reduced by this bill?

Mr. MILLER. I couldn't hear you.

Mr. FRENZEL. What is the value of the duties that might be reduced by this bill?

Mr. MILLER. The potential loss of revenue resulting from enactment of this legislation would be approximately $1.4 million in 1982, going down through 1988 to about $202,000.

Mr. FRENZEL. The reason I asked that question was because you mentioned that you wanted to negotiate that off. It has been my experience here that each administration, when it is talking about a $10 item, always wants to negotiate them off for something.

It sounds to me like a rather small item. Maybe it isn't. You talked about it in connection, I think, with H.R. 6268 as well, that you are going to negotiate that off.

I would like to know when you make those kinds of statements what you are going to negotiate items off for? I don't think there is anything out there. If you are opposed to a bill because it is going to harm the local industry, I think that is a good and sufficient reason. But when you make the point that you are going to trade it off for something, you should indicate what you are going to trade it off for and what good it will do for us.

Chairman GIBBONS. In addition to that, yesterday I received a phone call from Mr. Gary Sanson of the Organized Fishermen of Florida. He called to express his support for the bill H.R. 4002. He said that they need those nets. There are few domestic producers and their nets do not compare well with the high quality from the foreign nets.

He said that they were glad to buy domestic nets, but the nets do not hold up. In addition to this, they have to compete with imported seafood products and are paying higher tariffs for the nets—paying higher tariff for the nets as they are required now to do only puts them at a greater financial disadvantage.

So, that is the other side of the coin. I think we will keep this bill moving and see what happens to it.

I hope the administration would reconsider their position.

Mr. **Frenzel**. I would like to inquire further on the domestic industry. Are they scheduled to appear today?

Chairman **Gibbons**. They are here.

Mr. **Frenzel**. We can hear more from them.

Chairman **Gibbons**. Let's take up Mr. Vander Jagt's bill, H.R. 5554.

Mr. **Miller**. Mr. Chairman, the administration objects to enactment of H.R. 5554. We note this product is eligible for duty-free treatment under the U.S. generalized system of preferences. However, Hong Kong, Singapore, Taiwan, and the Republic of Korea will not be eligible since they exceeded the competitive need import limitation set forth in section 504(c) of the Trade Act of 1974, or have been otherwise excluded from duty-free treatment under the administration's graduation policy.

We believe enactment of this legislation would have the effect of circumventing the graduation of these competitive duty-free countries from status. We believe we have important negotiating objectives with respect to these countries that have been excluded from duty-free treatment and we believe U.S. interests would be better served in this case by negotiating with these countries to increase our access to their markets rather than by making a unilateral tariff reduction.

Chairman **Gibbons**. These countries are?

Mr. **Miller**. The four countries excluded are Hong Kong, Singapore, Taiwan, and the Republic of Korea, Mr. Chairman.

Mr. **Frenzel**. Can you give us an idea of the value of those imports?

Mr. **Miller**. Mr. Frenzel, in 1981, total imports for solid-state radio receivers under Tariff Item 685.24 were $583 million-plus. I do not have separate data just for clock radios. I do have an estimate of the revenue loss from the U.S. International Trade Commission if that would be helpful.

Mr. **Frenzel**. That would be helpful.

Mr. **Miller**. According to the USITC, the revenue loss in 1981 would be somewhat over $12 million and declining slightly through 1986 to something on the order of $10.4 million.

Mr. **Frenzel**. Thank you.

Why does that number decline, do you know?

Mr. **Miller**. Mr. Frenzel, we——

Mr. **Frenzel**. Do we have tariff reductions scheduled for the future? Because of MTN?

Mr. **Miller**. Yes.

Chairman **Gibbons**. I am not going to go into great detail on this. I don't know of any tariff barriers Singapore and Hong Kong have against any of our products.

Mr. **Miller**. Mr. Chairman, we are not just looking at tariff barriers. The Office of the U.S. Trade Representative is in the process of identifying other types of barriers, nontariff barriers, barriers to services, and investment which these countries do maintain.

Chairman **Gibbons**. Singapore and Hong Kong?

Mr. **Miller**. Yes, sir. We could supply some additional information for the record in that regard.

Chairman **Gibbons**. I would like to have that. It was my impression they had no barriers.

[The information follows:]

The Department of Commerce provides the following list of negotiating potentials for Singapore and Hong Kong:

SINGAPORE

Inadequate copyright protection.

Banking: Foreign banks in Singapore must maintain minimum capital reserves and must get government approval in order to establish new branches or representative office. Foreign employees in these banks are required to have work permits which are limited by quotas.

Air transportation: Foreign carriers must pay income taxes whereas the national carrier is tax-exempt.

Insurance: Insurance requirements for government statutory bodies in general must be placed with a locally incorporated, insurance company. In addition, a portion of all reinsurance must be purchased locally, and it is administrative practice that placement outside the country be confined to business over and above the local absorption capacity.

HONG KONG

Engineering: A foreign engineer must have a local representative who is responsible for ensuring that local requirements under building ordinance regulations are met.

Motion Pictures: A certain proportion of total screen time must be reserved for the showing of local films or TV programs.

Insurance: A non-admitted company is prohibited from conducting insurance business locally.

Chairman **Gibbons**. How about Korea? Are we carrying on any active negotiation with Korea right now?

Mr. **Miller**. I don't think we are carrying on active negotiations at this time, Mr. Chairman, but we are approaching the GATT Ministerial in November, where the U.S. Government is going to continue to press our trading partners to continue trade revitalization and not just sit back and wait for the results of the Tokyo Round to be concluded.

Chairman **Gibbons**. Do we have any ongoing negotiations with Taiwan that we are trying to succeed in? I am not aware of any. I am asking these for information because if you have the information, I would like to have it.

Mr. **Miller**. With regard to Taiwan, Mr. Chairman, we just concluded one series of negotiations under the section 124 authority, and we do have consultations with Taiwan and of course other countries on an ongoing basis.

Mr. **Bailey**. Mr. Chairman?

Chairman **Gibbons**. We are going to suspend right here and go vote. We have a vote on the floor. We will be right back.

[Recess.]

Chairman **Gibbons**. We will now take up where we left off.

We were talking about Mr. Vander Jagt's clock radio bill. I was just trying to inquire as to what problem we are trying to solve with this. As I recall, you said we were going to have a ministerial, and wanted cooperation out of folks in the ministerial.

As I recall, that was your principal reason for not supporting the bill; is that right?

Mr. MILLER. Mr. Chairman, I said the GATT Ministerial is coming up. It is not that we are seeking the cooperation of those countries at the ministerial itself, but I was trying to indicate in response to your concerns that we do not have any specific negotiating goals. Indeed the administration intends to use the GATT Ministerial to get support for continued liberalization.

Chairman GIBBONS. In the meantime, will we hold up on everything that is trade liberalization?

Mr. MILLER. Mr. Chairman, I think we would like to supply for the record some more detail on our goals for the GATT Ministerial and for the post-ministerial period which we hope will clarify our intention.

Chairman GIBBONS. I don't know if you need to put it in the record. You sure need to communicate with us on it. We need to know where we are going.

Let's take up—does the administration have any comments on any other bills?

Mr. MILLER. Mr. Chairman, was your question, do we have additional comments on this bill or other bills?

Chairman GIBBONS. Any other bills?

Mr. MILLER. No, sir.

Chairman GIBBONS. You still stick by all the comments you made the other day?

Mr. MILLER. Yes, sir.

Chairman GIBBONS. We had plenty of them then and we remember all of them, too.

Let us proceed with the other witnesses for the day. We will go through the bills in the order on the witness list. In order to conserve time, we have arranged some of our witnesses in a panel format.

I hope this will be satisfactory. Let's begin with H.R. 5811.

Those of you who are expecting to be called, if you will get hold of the witness list, I think that will expedite the consideration.

H.R. 5811 is Mr. Downey's bill to reduce the tariff on caffeine. That is the Downey-Frenzel bill, I am reminded. We see our colleague, Mr. Samuel Devine, and our old friend, Mr. Donald Alexander, who are here to talk about this bill.

I want to tell Mr. Devine—that office that you formerly occupied that I am occupying is in great shape. I appreciate all the little momentos you left around.

Mr. DEVINE. Thank you, Mr. Chairman.

Mr. FRENZEL. It doesn't vote quite as well as it used to, but——

Chairman GIBBONS. That was the Sam Hall—the Sam Corridor of the Rayburn Building. We had a whole array of Sams along in there. We miss you, Sam Devine. I miss my service with you when we were on the House Administration Committee together.

I always remember you were one of those straight-up guys.

Mr. DEVINE. Thank you, Mr. Chairman.

Chairman GIBBONS. I always admired you.

STATEMENT OF DONALD C. ALEXANDER, COUNSEL, KNOLL PHARMACEUTICAL CO.

Mr. ALEXANDER. Normally, I yield to the legislative branch as I frequently did when I was in the executive branch, but I have just been instructed by Mr. Devine to go first.

I would like to file my statement for the record. You heard the administration's point of view on the 17th about this bill, H.R. 5811. The administration, as I understand it, supports the concept with some modifications. Their proposal is an important first step, but just that.

Obviously, we will support the administration's proposal. We wish, however, to point out that the bill as introduced by Congressman Frenzel and Congressman Downey would have corrected a matter that calls out for correction.

When there was a shift from the specific to the ad valorem duty on synthetic caffeine, there was an increase in the duty by about 68 percent. The one U.S. producer of synthetic caffeine cannot satisfy as much as half of the U.S. market. Correction would not hurt any U.S. producer.

The U.S. producer filed a letter with your subcommittee, Mr. Chairman, in support of the administration's compromise.

At this point, I would like to yield to Congressman Devine.

[The prepared statement follows:]

STATEMENT OF DONALD C. ALEXANDER, COUNSEL, KNOLL PHARMACEUTICAL CO.

SUMMARY

The purpose of the testimony is to support duty reductions for imports of synthetic caffeine. H.R. 5811, sponsored by Representatives Downey and Frenzel, would provide staged duty reductions for caffeine based on an accurate ad valorem equivalent to the former specific rate of duty.

The Administration opposes H.R. 5811 as drafted and has offered its own proposal. The Administration has proposed a 1 year reduction in the caffeine duty, pending agreement by the EC to a permanent 60 percent reduction in its duty.

Knoll supports the Administration's proposal as a constructive first step. However, Knoll thinks H.R. 5811 is preferable for three reasons:

(1) The current U.S. duty is derived from conversion of the former specific rate of duty to an "ad valorem equivalent." However, the conversion failed to produce an "equivalent," resulting instead in a substantially higher duty. Correction of the U.S. duty to a true equivalent should not be considered a concession.

(2) A reduction in the U.S. duty to a true ad valorem equivalent cannot harm the single domestic producer of caffeine. The domestic producer is able to supply less than one-half the U.S. market for synthetic caffeine.

(3) The Administration's proposal asks too much of the EC and may be rejected.

STATEMENT

My name is Donald C. Alexander. I am a partner in the Washington office of Morgan, Lewis & Bockius. I am appearing today in behalf of Knoll Fine Chemicals ("Knoll"), a division of Knoll Pharmaceutical Company, a New Jersey corporation. Knoll is engaged in the importation, sale and distribution of pharmaceutical chemicals, including caffeine, manufactured by Knoll A.G., a West German producer of pharmaceuticals and specialty chemicals.

The purpose of my testimony is to support duty reductions for imports of caffeine which is classified to item 437.02 of the Tariff Schedules of the United States. Knoll imports synthetic caffeine into the United States. Synthetic caffeine is used in the production of various cold and allergy preparations to counteract drowsiness as well as in the production of soft drinks.

Pending before the Subcommittee is H.R. 5811, a bill to reduce the duty on caffeine. The purpose of this legislation is to provide for caffeine the staged ad valorem rates which would exist if the July 1, 1980 conversion to ad valorem rates had been based on a true ad valorem equivalent to the former specific rate of duty.

However, as you heard last week, the Administration opposes the bill in its current form. Instead, the Administration favors a one year reduction in the caffeine duty to 6 percent, the final staged rate of the Tokyo Round, to allow Germany and the other members of the European Community ("EC") the opportunity to reduce their duties for caffeine, as well. Under the Administration's proposal, Germany and the other EC nations must agree within one year to reduce their duties for caffeine by 60 percent in the period beginning with the enactment of the legislation and ending in 1987, the final year of the Tokyo Round staged reductions. If no such agreement is achieved, the U.S. duty will revert to its previous staged level.

Knoll participated in the discussions leading to this compromise and supports the Administration's proposal. Knoll is committed to seek reciprocal duty reductions from the EC. In fact, over the past two years since the new duty went into effect, there have been several conversations to this effect between officials of Knoll A.G. and the West German Ministry of Commerce as well as with officials of the German Embassy here in Washington.

While we think the Administration's proposal is an important and constructive first step to achieve bilateral duty reductions, we believe the position taken in H.R. 5811 is correct and offers the best hope of a timely price reduction to the many U.S. purchasers of synthetic caffeine. The Administration's proposal is founded on a policy opposed to any unilateral duty reductions, regardless of the reasons. Knoll does not dispute this policy, but rather its practical effect upon the timing of a duty reduction for caffeine.

As is apparent, the reasons for Knoll's position must be discussed partially in the context of the history surrounding the conversion of the former specific rates of duty to ad valorem rates of duty. I will attempt to summarize our position and the related history as succinctly as possible.

First revision of the U.S. duty on caffeine to more nearly reflect the duty which should and would have been assessed had an actual ad valorem equivalent been established is not necessarily a concession which demands an immediate reciprocal response from Germany or the EC.

The existing duty rate was derived from the conversion of caffeine's former specific duty rate of 25 cents per pound to an ad valorem equivalent rate. During the Multilateral Trade Negotiations ("MTN") in 1979, the U.S. decided to convert a large number of its specific and compound rates of duty to ad valorem rates. To develop these conversions, the Special Trade Representative ("STR") in March 1978 requested the International Trade Commission ("ITC") to conduct an investigation for the purposes of: (1) developing an ad valorem equivalent for each specific or compound rate, based on the import value of the items in a recent representative period; and (2) determining whether the ad valorem conversion could "have a significant detrimental impact on importers or consumers of the article concerned or on a domestic industry producing like or competitive products." See 43 Fed. Reg. 14156 (April 4, 1978).

In April 1978, ITC issued a preliminary list of ad valorem equivalents. 43 Fed. Reg. 16555 (April 19, 1978). The ITC notice stated that the proposed equivalents would provide "an amount of duty on imports of products currently subject to specific and compound rates of duty substantially equivalent to the amount collected as a result of the application of the existing . . . rates." (Emphasis added.) The preliminary list provided a rate of 10.4 percent for caffeine. Thus, the objective of STR and ITC was to establish an ad valorem rate for caffeine which was equivalent to the specific rate and which would produce revenues equivalent to those produced by the specific rate.

During ITC's public hearings on the proposed rates, counsel for Knoll testified that the proposed rate of 10.4 percent for caffeine would result in a significant increase in the duty. Nonetheless, ITC retained 10.4 percent ad valorem as the "equivalent" for caffeine.

The Commission used 1976 as the base period for conversion. According to Department of Commerce statistics, the average price of caffeine imports in 1976 was $2.40, which at an ad valorem rate of 10.4 percent, was equivalent to 25 cents. However, between 1977 and 1981 the price of synthetic caffeine increased dramatically, due primarily to increases in raw materials (petroleum) and energy costs. A portion of the price increase also may have resulted from the decline in the value of the dollar, although our information indicates that in most years the increase in the price of caffeine was not sufficient to allow Knoll to recover the increase in its costs due both to the decline of the dollar and the higher costs of production.

Statistics from the Department of Commerce demonstrate that as caffeine prices escalated, the ad valorem rate "equivalent" to the former 25 cent specific rate of duty which would have produced revenues "substantially equivalent" to that rate of duty, declined significantly from 10.4 percent. As the table below demonstrates, the ad valorem equivalent to 25 cents should have been 5.7 percent of the average duty value in the month (June 1980) immediately preceding the effective date of the conversion.

Time period	Average duty value (all imports per pound)	Duty rate (cents per pound)	Average ad valorem equivalent (percent)
Jan. 1 to Dec. 31, 1978	$3.13	25	8.0
Jan. 1 to Dec. 31, 1979	3.59	25	7.0
Jan. 1 to June 30, 1980	4.12	25	6.1
June 1 to June 30, 1980	4.34	25	5.7
July 1 to July 31, 1980	4.37	(1)	(1)

[1] 9.5 percent ad valorem equals 42 cents per pound.

Thus, for Knoll and other caffeine importers the result of the conversion was to increase the duty on caffeine by 68 percent from 25 to 42 cents per pound on July 1, 1980.

At the time the U.S. determined to convert to ad valorem rates, it also agreed to staged reductions of these rates to produce an ad valorem rate of 6 percent for caffeine by 1987. The first three of these reductions were taken in July 1980, January 1981 and January 1982, placing the current duty at 8.5 percent ad valorem. Despite these reductions, Department of Commerce statistics show that the average duty paid in 1981 was 34 cents per pound and to date in 1982 is 32 cents per pound. Had the staged duty reductions been based on an actual ad valorem equivalent, today's duty would be approximately 20 cents per pound. Thus, the current duty is 60 percent above a true ad valorem equivalent.

The increase in actual duties paid due to the conversion to ad valorem rates goes in the opposite direction of the tariff reductions which followed the Kennedy Round. Those negotiations resulted in a reduction of the duty on caffeine imports beginning in 1968 from a specific rate of 45.5 cents per pound to 25 cents per pound in 1972.

To understand the effect of this duty increase upon U.S. consumers of synthetic caffeine, it is necessary to be aware of the structure of the U.S. caffeine market. Caffeine may be produced naturally, as a by-product of decaffeination of coffee and tea or synthetically from petroleum based feedstocks. All natural caffeine produced in the U.S. is usually sold to a leading domestic soft-drink manufacturer. Other soft-drink manufacturers and the U.S. pharmaceutical industry rely on synthetic caffeine. The single domestic producer of synthetic caffeine is able to supply less than one-half of the U.S. market for synthetic caffeine. Therefore, most of the synthetic caffeine sold in the U.S. must be imported. Because of the duty conversion, American consumers of caffeine have been paying a higher price for synthetic caffeine since the imported product is necessary to meet U.S. demand which cannot be met by domestic production.

The decisions to convert the specific rate for caffeine to an ad valorem rate and to implement staged reductions were made by the U.S. No such decisions were made by Germany or the EC. The fact that the U.S. conversion did not account for subsequent price increases and must be corrected should not be elevated to a concession requiring a matching concession. H.R. 5811 is intended to do nothing more than make the necessary correction.

The Administration's response to H.R. 5811 has been that the purpose of the conversion to ad valorem rates was to prevent erosion of the specific duties in an inflationary period. However, as discussed above, the effect of the conversion for caffeine has gone far beyond equivalency. Nowhere in the administrative or legislative record is there any indication that an increase of the magnitude experienced in this case was contemplated. Indeed, such a result could not have been intended since section 101(c)(2) of the Trade Act of 1974 provides that the President has no authority to increase any rate of duty to, or impose a rate above "the rate which is 20 percent ad valorem above the rate existing on January 1, 1975."

Second, a reduction in the rate of duty for caffeine as proposed in H.R. 5811, cannot harm the domestic producer. As discussed above, the domestic producer would have to at least double its capacity to meet U.S. demand for synthetic caffeine.

Obviously, U.S. consumers would purchase the lower-priced product if it could be obtained. Since the domestic producer cannot satisfy existing demand, the increase in duty in this case has simply resulted in U.S. consumers paying more for the product.

Moreover, EC import statistics, confirmed by U.S. export statistics, show no commercial exports of synthetic caffeine to any EC nation in the past decade. It is difficult to understand why the U.S. should insist on an immediate reciprocal duty reduction where there is no evidence that the domestic industry can supply the U.S. market.

Third, as stated above, Knoll has no objection to a reduction in the West German/EC duty and will continue its efforts to seek such a reduction. However, I want to emphasize that the compromise proposal offered by the Administration is inherently unfair in that it requires from the EC a larger reduction over a shorter time than that being offered by the U.S. Under the proposal, the EC would take the entire 60 percent reduction over a five year period while the U.S. will have taken it over a seven year period. I fear that the Administration's insistence on precisely matching rates and schedules for the duty reductions will jeopardize the chances for agreement by the EC. Of course, imports from the EC have already suffered two years of economic disadvantage due to the increase in the U.S. rate of duty.

CONCLUSION

Knoll supports the Administration's proposal. It is a good beginning point. However, we believe that the better approach would be to approve H.R. 5811 to give U.S. caffeine purchasers immediate and permanent relief from the high prices produced by an unintentional and unnecessary tariff increase without linking such relief to a matching reduction by the EC.

STATEMENT OF SAMUEL L. DEVINE, COUNSEL, PEPSICO, INC.

Mr. **DEVINE**. Thank you, Mr. Alexander.

Mr. Chairman, Mr. Frenzel, this is the first opportunity I have had to appear before the committee since I left this body. I welcome this opportunity.

Chairman **GIBBONS**. Welcome, Sam.

Mr. **DEVINE**. You will notice that the remarks that I submitted for the record are barebones brief; having sat on that side of the table, I recognize the tremendous volume you have. I will not even go forward to read that statement, except what I feel is the bottom line.

The duty has been increased measurably more than ever intended, and Mr. Frenzel and Mr. Downey's bill, 5811, is designed to eliminate that inequity. We feel that is a proper approach.

However, I would like to associate myself with the remarks of my colleague, Mr. Alexander, in that we—and I represent PepsiCo in this particular instance—go along with the proposed compromise reached at this time, reserving the right to perhaps come back at a later session and address the matters that were originally addressed in H.R. 5811.

[The prepared statement follows:]

STATEMENT OF SAMUEL L. DEVINE, COUNSEL, PEPSICO, INC.

SUMMARY

The International Trade Commission determined 10.4 percent ad valorem would produce revenues equivalent to amount of formerly specified duty rate of 25 cents per pound.

The result was imposition of a duty equivalent to 42-43 cents per pound, an increase of 68 percent over the previous rate of 25 cents per pound.

The legislation proposes to restore the duty intended under Public Law 96-39, the Trade Agreements Act of 1979.

STATEMENT

Mr. Chairman, this is the first opportunity I have had to appear before a Committee or Subcommittee since leaving Congress, and I am pleased to greet a number of my old colleagues.

I am appearing in support of the Downey-Frenzel bill on behalf of PepsiCo, Inc.

Recognizing the volumes of testimony presented on an omnibus bill such as this, I shall try to be bare-bones brief.

By the Trade Agreement Act of 1979 (Public Law 96-39), a mandate was given to the International Trade Commission to develop ad valorem rates that would produce revenues substantially equivalent to the former specified rates of 25 cents per pound.

The Commission determined that 10.4 percent ad valorem was an amount that would produce revenue equivalent to the amount collected at the existing duty rates, apparently basing their determination on caffeine prices prevailing in 1975-77.

The conversion to ad valorem rates for caffeine took effect on July 1, 1980, together with the first of eight duty reductions.

Beginning in 1977, however, the average value of caffeine imports increased significantly. Thus, the ITC's 10.4 percent duty rate for caffeine, which was immediately reduced to 9.5 percent ad valorem, had the effect of imposing a duty equivalent to 42 to 43 cents per pound, an increase of 68 percent over the 25 cents per pound duty prior to July 1.

Accordingly, price increases naturally followed, paid for, of course, by the consumers of pharmaceutical products, as well as soft drinks that contain caffeine.

This legislation is designed to simply restore the duty to a rate substantially equivalent in percentage to the former specific rate. Logically, a reduction in prices for pharmaceuticals and soft drinks should follow to the benefit of consumers, as well as industry.

Importation of significant quantities of caffeine is necessary because domestically-produced caffeine is in insufficient amounts to meet our nation's needs.

I suspect the bottom line is, the duty rate on imported caffeine was never intended to increase by nearly double. This bill is designed to restore the figure to the amount originally intended by the 1979 Act.

Thank you for the opportunity to express these views before this subcommittee.

Mr. **Frenzel**. I do have a question. I wanted to announce to the world I drink decaffeinated coffee. Second, I am a little disappointed with the administration's reaction to this bill because, primarily, the administration has no negotiating authority. Whatever is trying to be worked out has to be done between third parties, nongovernmental parties, and frankly, it is a mess.

I believe the bill as originally submitted is the right way to go. I think, however, the interests in this case are being very cooperative and we will work our way through. If the process doesn't work—and I have no confidence that it will—I hope we will be able to resubmit this bill and be able to move it.

The chairman has often heard my complaints that the administration wants to reserve every matter for negotiations, even when it has no negotiating authority.

I am a little disappointed; but like the gentlemen at the witness table, Mr. Downey and I will accept for the time being the decision that has been made.

Chairman **Gibbons**. Thank you, gentlemen.

Of course, your statement and all statements of all other witnesses today will be printed in full in the record. I haven't seen all the statements of witnesses, but those that are reasonable in length and will not unnecessarily burden the cost of printing will be included in the record.

We appreciate it very much.

Mr. **Alexander**. Thank you, Mr. Chairman.

Mr. **Devine**. Thank you, Mr. Chairman.

Chairman **Gibbons**. Let's take up H.R. 4494 by Mr. Goodling.

We have Mr. Richard Kimberly of Kimberly-Clark, accompanied by Mr. Bream and Ms. van der Wal.

STATEMENT OF RICHARD H. KIMBERLY, DIRECTOR, FEDERAL GOVERNMENTAL RELATIONS, KIMBERLY-CLARK CORP., ACCOMPANIED BY LEROY G. BREAM, MILL MANAGER, SCHWEITZER CO.-U.S.; AND JEANNE H. van der WAL, REGULATORY ATTORNEY

Mr. **Kimberly**. Good morning, Mr. Chairman.

I am Richard Kimberly, director of Federal governmental relations for Kimberly-Clark Corp., representing the Schweitzer Co.-U.S. I am joined at the table by Leroy Bream, our mill manager from Mount Holly Springs, Pa., and Jeanne van der Wal, attorney in our Washington office, handling tariff matters.

We are here to speak in favor of H.R. 4494.

Kimberly-Clark Corp., is in the business of manufacturing and marketing products made from fibers. We are probably best known for our products in our consumer and service class, Kleenex facial tissue and Kleenex disposable diapers.

The particular class at hand is our paper and specialties class, which includes a variety of specialty papers such as capacitor, cigarette, correspondence, texts, and other products.

We have operations in 19 States and 20 foreign countries and territories and are headquartered in Neenah, Wis. Kimberly-Clark's Schweitzer Co., has nine facilities in five States, including Mount Holly Springs, Pa., and Lee, Mass., and is the leading manufacturer of capacitor paper.

This paper is the principal component in the manufacture of electrical capacitors which are found in virtually every electrical motor used by industry and in such major home appliances as fluorescent lights, air-conditioners and refrigerators.

Schweitzer imports Fourdrinier wire from France, West Germany and the United Kingdom and uses these wires in highly specialized papermaking machines.

We estimate that the United States imported approximately $550,000 of these triple chain, Fourdrinier wires in 1980 for capacitor paper production.

We paid approximately $100,000 in duty on these wires. Fourdrinier wires are continuous belts of stainless steel, bronze or plastic screen. Mr. Chairman, I do have some samples here for members of the committee and the staff if they would like to look at them.

Chairman **Gibbons**. I assume this is what I have in my hand?

Mr. **Kimberly**. Yes sir, I have extras for other members.

Chairman **Gibbons**. This is a screen?

Mr. **Kimberly**. That is the actual screen, Mr. Chairman. Underneath it, in that sample, is the actual paper which is just a couple of thousandths of an inch thick. If one of the staff could pick these up, we might distribute them to Mr. Frenzel and some of the other members.

That is the actual wire. The diagram shows where it goes on the paper machine. A number of domestic companies produce wires for less specialized types of paper, but no domestic company makes the fine triple chain Fourdrinier wire used to produce capacitor paper.

The first diagram shows a blow-up of the triple chain wire and under that is the monoplane wire. H.R. 4494 creates a separate category for Fourdrinier wire used in making capacitor paper and eliminates the tariff currently leveled upon it.

The bill strikes existing tariff item 642.30 which encompasses all Fourdrinier wires and then creates the new item, 642.31, for Fourdrinier wires used in capacitor papermaking and 642.32 for all other wires.

We agree with the International Trade Commission that an amendment should be made to this bill clarifying that the already negotiated multilateral trade negotiations staged tariff reductions should be continued for the other wire categories, and the ITC suggested that in one of its documents submitted earlier, Mr. Chairman.

Chairman GIBBONS. We are aware of that.

Mr. KIMBERLY. Also, the bill as drafted incorrectly reflects a 21.9 percent ad valorem duty rate. This should correctly be 19.4 percent, because there was another reduction on January 1, 1982.

We would suggest correcting that to the 19.4-percent level.

Chairman GIBBONS. Fine. We will make a note of that to make sure it is done.

Mr. KIMBERLY. The present high tariff level causes U.S. manufacturers to pay unnecessarily higher costs; and makes U.S. capacitor paper less competitive in domestic and world markets with alternative products such as polypropylene films.

Unfortunately, the economy, foreign dumping, and high production costs have caused Schweitzer Co. to completely close down capacitor production at Lee, Mass., and subsequently reduce production at Mount Holly Springs, Pa.

We believe there is the potential to regain some of the lost production and jobs at the Pennsylvania facility, especially if this unnecessary tariff burden can be removed.

We thank you for the opportunity to testify before the subcommittee and ask your support for this bill which will help reduce production costs and keep U.S. capacitor paper facilities operative.

[The prepared statement follows:]

STATEMENT OF RICHARD H. KIMBERLY, DIRECTOR, FEDERAL GOVERNMENTAL RELATIONS, KIMBERLY-CLARK CORP., REPRESENTING SCHWEITZER CO.-U.S.

Kimberly-Clark Corp. is in the business of manufacturing and marketing products made from fibers. The Corporation manufactures its products in the United States and many other countries and markets them in most areas of the world. The products are grouped into three major classes: Consumer and Service; Newsprint, Pulp and Forest Products; and Paper and Specialties.

Products in the Consumer and Service Class, the largest of the three classes, include facial tissue, bathroom tissue, feminine napkins and tampons, disposable diapers and household towels sold under a variety of trademarks including Kleenex, Kotex, New Freedom, Delsey and Hi-Dri. This class also includes products for health care and industrial wiping markets as well as materials sold to others for conversion.

The Newsprint, Pulp and Forest Products Class includes lumber, pulp, groundwood printing papers and newsprint. The Paper and Specialties Class includes a variety of industrial and specialty papers; capacitor, cigarette, correspondence, cover and text papers, and other products.

Kimberly-Clark Corp. has operations in 19 states and 20 foreign countries and territories with headquarters located in Neenah, Wisconsin. Kimberly-Clark's total worldwide employment is over 31,000, and its annual sales exceed $2.8 billion.

The Schweitzer Co. of Kimberly-Clark (hereafter referred to as "Schweitzer") has nine facilities in five states, including Mount Holly Springs, Pennsylvania, and Lee, Massachusetts, and is the leading U.S. manufacturer of capacitor paper. Capacitor paper is the principal component in the manufacture of electrical capacitors which are found in virtually every electric motor used by industry and in such major home appliances as fluorescent lights, air conditioners and refrigerators. Recently the world market for capacitor paper was estimated at approximately $50 million annually.

Schweitzer imports Fourdrinier wires, currently Item 642.30 in the Tariff Schedules of the United States ("TSUS"), from France, West Germany, and the United Kingdom and utilizes these wires on highly specialized papermaking machines in the production of capacitor paper. The TSUS does not provide a sufficient breakdown to determine exact amounts of imports for monoplane and the triple chain wire, but we estimate that the U.S. imported approximately $550,000 of fine mesh triple chain Fourdrinier wire in 1980 for capacitor paper. The United States presently imposes a 19.4 percent tariff on Fourdrinier wire from most favored nation countries. As a result of the Tokyo Round of Multilateral Trade Negotiations ("MTN"), Item 642.30 will be reduced from its current duty of 19.4 percent to 10 percent by 1987. In 1980, Kimberly-Clark paid approximately $100,000 in duties on triple chain Fourdrinier wire used to manufacture capacitor paper.

Fourdrinier wires are continuous belts of stainless steel or bronze screen which receive water and fibers and allow the water to drain through the Fourdrinier wires leaving a layer of paper. The finer the mesh of the Fourdrinier wire, the higher the grade of paper produced. Fourdrinier wires used to make capacitor paper have a warp (lengthwise) wire mesh count of approximately 240 to 246 mesh per linear inch. Other types of Fourdrinier wire used in papermaking have a warp mesh count of 60 to 70 mesh per linear inch.

TSUS item 642.30 not only includes fine mesh triple chain Fourdrinier wire used in the production of capacitor paper, but also all other wires used in the production of lower grades of paper. Although a number of domestic companies produce wires for less specialized types of paper, no domestic company makes the fine mesh triple chain Fourdrinier wire which are used by Schweitzer and Crocker Technical Papers Inc.—the other U.S. manufacturer—to produce capacitor paper.

H.R. 4494 creates a separate category for Fourdrinier wire used in making capacitor paper and eliminates the tariff currently levied upon it. The bill strikes existing TSUS item 642.30, which encompasses all Fourdrinier wires, and replaces it with two new items, 642.31 for Fourdrinier wires used in capacitor papermaking, and 642.32 for all other Fourdrinier wires.

As suggested by the International Trade commission, we believe an amendment should be make to the bill clarifying our intent that the already negotiated MTN tariff reductions continue to be applicable to new item 642.32. The bill, as drafted, incorrectly reflects a 21.9 percent ad valorem duty rate. This rate has been reduced by the aforementioned MTN reductions to 19.4 percent ad valorem for 1982.

Over the past few years, domestic producers of capacitor paper have faced intense foreign competition in the United States market, including imports from France and Finland which have been found to have been dumped at margins up to 30 percent. Intensifying these economic problems, the present high tariff level causes U.S. manufacturers to pay unnecessarily higher costs. Elimination of the tariff on Fourdrinier wires used to produce capacitor paper will help contain production costs of United States capacitor paper and will, thus, make U.S. capacitor paper more competitive in domestic and world markets and with alternative products such as polypropylene film.

Unfortunately, the economy and high production costs have caused the Schweitzer Co. to completely close down capacitor paper production at Lee, Massachusetts, and substantially reduce production at Mount Holly Springs, Pennsylvania. We believe there is the potential to regain some of the lost production and jobs at the latter facility, especially if this unnecessary tariff burden can be removed. Elimination of the tariff will foster economic growth in the United States without adversely affecting domestic industry since, as previously stated, no domestic company produces the kind of fine mesh triple chain Fourdrinier wires needed to make capacitor paper.

We thank you for the opportunity to testify before the Subcommittee and ask that you support H.R. 4494, which will help reduce production costs and keep U.S. capacitor paper facilities operative.

Chairman GIBBONS. Obviously this is something we need to move on with dispatch. We will see what the committee—if the rest of the committee agrees with the chairman on that.

[The following was subsequently received:]

SUPPLEMENT TO STATEMENT OF RICHARD H. KIMBERLY, DIRECTOR, FEDERAL GOVERNMENTAL RELATIONS, KIMBERLY-CLARK CORP., SCHWEITZER CO.-U.S.

TECHNICAL EXPLANATIONS AND RECOMMENDED LANGUAGE CHANGES TO COMPLY WITH THE U.S. INTERNATIONAL TRADE COMMISSION'S SUGGESTIONS

Fourdrinier wires used for the manufacture of capacitor paper are unique and can be readily distinguished from other types of Fourdrinier wires by their makeup. Capacitor paper is the principal component in the manufacture of electrical capacitors which are used for keeping stored electrical charges contained in industrial motors and certain home appliances. This paper is very thin, of uniform thickness (.00025 inch to .001 inch), and it is impervious (no holes) to electrical currents.

Capacitor paper machine Fourdrinier wires are manfactured exclusively overseas. Fourdrinier wires are continuous belts of woven materials which are identified by the number of wires per linear inch in the machine direction. These are called warp wires—they run in the lengthwise direction of the wet end of a paper machine. The cross machine direction wires are called shute wires—they run in the crosswise direction to the length of the wet end of a paper machine. In the case of the very specialized Fourdrinier wires used for making capacitor paper, the warp (lengthwise/machine direction) wires consist of 240 wires or more per linear inch as contrasted to other Fourdrinier wires which have a wire count in the range of 8 to 225 wires per linear inch with most falling in the 60 to 70 range.

Capacitor paper is generally made on what are called "triple-chain" Fourdrinier wires (see attachment). These wires are made up of groups of three (3) "warp" (lengthwise/machine direction) wires and one (1) "shute" wire (cross machine direction). The mesh of a Fourdrinier wire consists of the combinations of "warp" and "shut" wires per inch. However as a point of clarification, a "triple-chain" wire with 240 "warp" wires per linear inch is known in the trade to have a "mesh triple warp" of 80 and not 240.

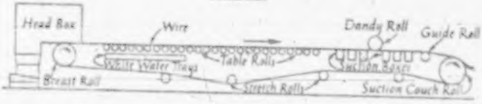
We therefore have no objection to the concept of the proposed changes in the language in the bill as suggested by the ITC in that wire count be used rather than the term, "Suitable for use in capacitor paper making machines" as presently stated in H.R. 4494. The proposed language based on 1982 duty rates is as follows:

Fourdrinier wires, seamed or not seamed, suitable for use in papermaking machines (whether or not papers of, or fitted or attached to, such machines):

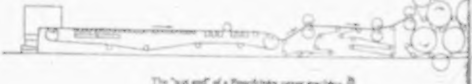
Item	Articles	Rates of duty (precent)		
		1	2	3
642.31	With 240 or more wires to the linear inch	Free	10	75
642.32	Other	19.4	10	75

This language also updates the Column 1 duty rate for item 642.32 and corrects a typographical error. The reduced duty rates under the already negotiated Multilateral Trade Negotiations (MTN) continue to be applicable to new item 642.32. Also, the bill, as drafted, incorrectly reflects a 21.9 percent ad valorem duty rate. This rate has been reduced by the aforementioned MTN reductions to 19.4 percent ad valorem for 1982 (the ITC document was prepared in 1981 and showed the corrected rate for that year of 21.3 percent).

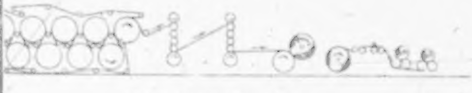
Fourdrinier


Head Box
Wire
Dandy Roll
Guide Roll
White Water Trays
Table Rolls
Suction Boxes
Breast Roll
Stretch Rolls
Suction Couch Roll

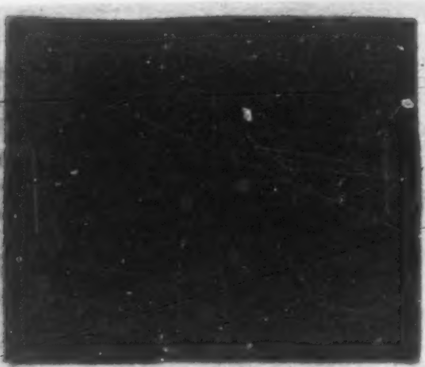
154 *The Story of Papermaking* | *The Paper Machine* 155

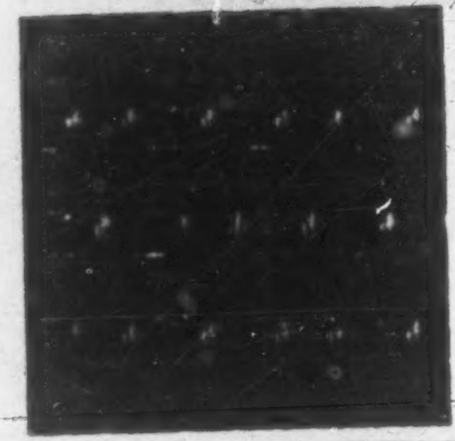


The "wet end" of a Fourdrinier paper machine.

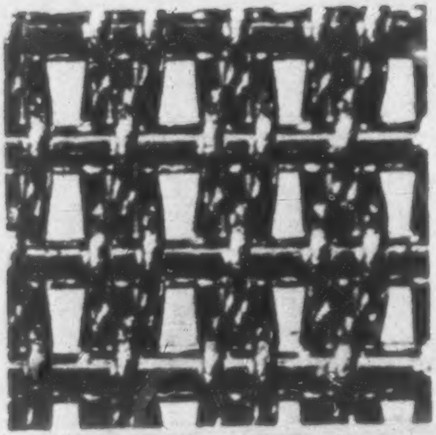


The "dry end" of a Fourdrinier paper machine.

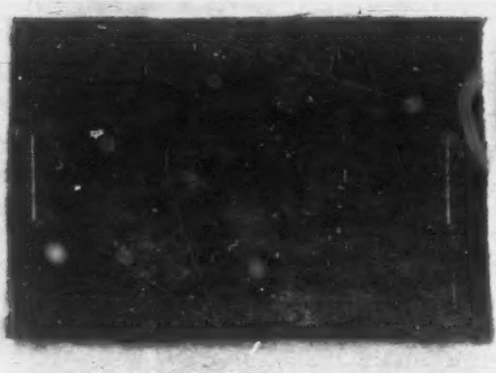




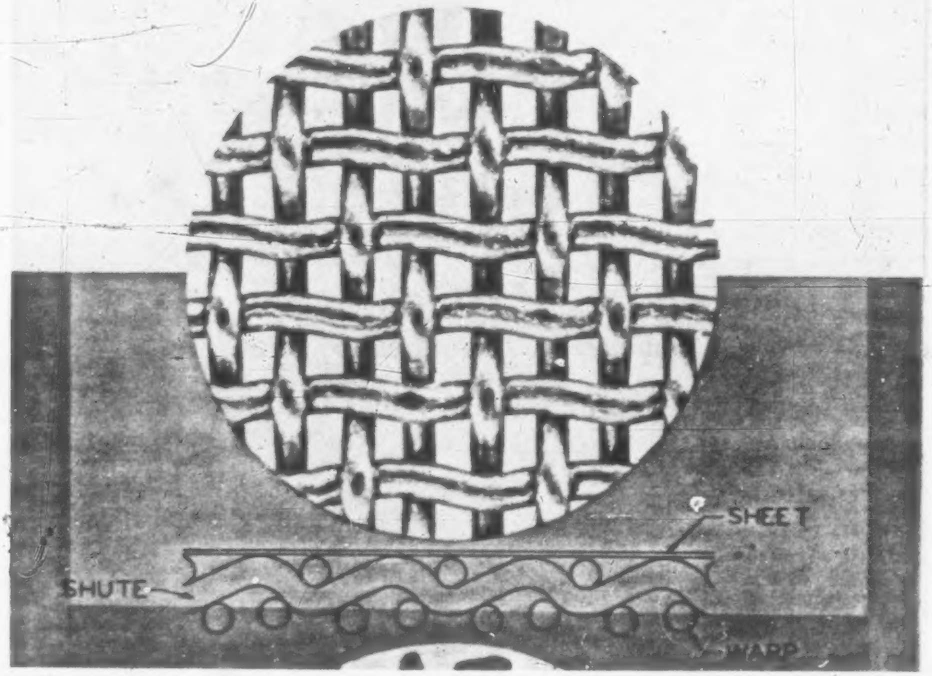
Phosphor bronze triple-chain wire



Stainless steel triple-chain wire



Monoplane Weave


SHEET
SHUTE
WARP

Chairman GIBBONS. Next is H.R. 5758, Mr. de Lugo's bill, dealing with watches.

STATEMENT OF HON. RON DE LUGO, A DELEGATE TO CONGRESS FROM THE TERRITORY OF THE VIRGIN ISLANDS

Mr. DE LUGO. Thank you, Mr. Chairman. It is good to be before your committee again.

Chairman GIBBONS. We just remarked up here we are going to make you an honorary member of this committee. We need you.

Mr. DE LUGO. You have one of the hardest-working committees in the Congress, that is for sure, and one of the most important. I want to say I come before you today with my quartz analog watch. I will be talking about watches. Many of you——

Chairman GIBBONS. Do you have any samples?

Mr. DE LUGO. You have to ask these fellows from the industry here.

The U.S. Virgin Islands watch industry, which in the past has supplied 25 percent or more of our manufacturing jobs, is in its death throes. The industry, which at its peak provided over 1,300 jobs in 15 firms to permanent residents, is now down to six firms employing fewer than 200 people.

Unless something is done in this Congress, we will be down to three companies employing no more than 100 people by the end of the year. Next year, the 22-year-old watch industry, our only truly successful headnote 3(A) industry, will be dead.

To the Virgin Islands the watch industry jobs are particularly important, because 85 to 90 percent are filled by women, many of whom are their families' sole breadwinners, and who lack the education or training to move into alternative private-sector jobs, assuming such jobs existed.

Also, these jobs are on St. Croix, which relies more heavily on manufacturing employment than do the other islands.

My bill is necessary to allow the watch companies in the Virgin Islands to convert their operations to production of quartz analog watches which have largely replaced in the U.S. marketplace the 17-jewel conventional watches predominantly in the Virgin Islands.

In the multilateral trade negotiations, following the Trade Reform Act of 1974, duties were not reduced on these conventional jeweled watches for the sole purpose of protecting this important Virgin Islands industry.

At the time, there was, and there remains, no jeweled watch production in the continental United States.

The approach was successful because in 1981 over 50 percent of the 4 million 17-jeweled conventional watches imported into the United States came from the U.S. Virgin Islands.

Unfortunately, the demand for this type of watch has declined to such a small share of the market—4.4 percent of 1981 U.S. watch consumption—that their production alone cannot justify Virgin Islands watch assembly operations.

The tariff structure on watches was developed in the 1930's when the number of jewels in a watch determined its quality. Because the new quartz watches have few, if any, jewels, they are subject to low duties which are declining further as a result of the MTN rate reductions.

Thus, the headnote 3(A) duty-free entry incentive is not sufficient in and of itself to justify the production of quartz watches. The situation is further complicated by the fact that territorial wages are roughly five times higher than those paid in the Hong Kong watch industry, the principal competitor to the Virgin Islands.

The cost to the U.S. Treasury in duty refunds is minuscule in comparison with the benefit that would accrue to the Virgin Islands, or with the cost of Government services that otherwise would have to be borne for these largely unemployable workers.

In 1981, the United States collected an estimated $80 million in duties on imports of some 84 million foreign watch movements, cased and uncased. The cap I have placed on duty refunds, $5 million, represents only 6 percent of the 1981 duties collected on watches.

Actual projected costs in 1983 if my bill passes in 1982 will be something less than $2 million. In our view, refunds of this amount will stimulate the production in 1983 of at least 4 million watches, probably 85 percent of which will be quartz analog, providing wages of $4.5 to $5 million and employment for 400 to 500 people.

Without the bill, we will have no watch industry by mid-1983, and be faced with providing food stamps, income maintenance, and other services which will far exceed the cost of this legislation.

Not only will my bill stimulate private-sector employment in the territories, there would be beneficial effects for U.S. producers of watch-related products such as cases, bracelets, crystals and dials.

Territorial firms are important customers for these U.S. products. If the insular industry disappears, the slack will be filled by Hong Kong or other Far Eastern suppliers of watches. Since the great majority of direct imports are completed watches, these U.S. interests will suffer.

Indeed, my bill has received strong expressions of support from watch dial manufacturers in Pennsylvania and Puerto Rico.

The bill would also eliminate the 70-percent foreign material content limitation on watches assembled in the territories under headnote 3(A). This change will give territorial producers additional pricing flexibility in the U.S. market to the benefit of U.S. consumers.

The foreign content limitation arbitrarily establishes a minimum selling price in the United States for territorial watches based on the cost of the foreign components.

For example, regardless of local labor input, overhead costs, and normal profit margins, a watch assembled in the Virgin Islands from foreign components costing $7 now must be sold in the United States for a minimum of $10.

A watch with components costing $14, which would not necessarily cost any more than the $7 unit to assemble in the islands, must currently be sold for $20, a price that may not be competitive with duty-paid imports.

Elimination of the foreign content requirements will simply give territorial producers more pricing flexibility, particularly on the slightly more costly units.

I pause here to stress that the foreign material content limitation is not a value-added requirement and does not, by itself, insure that a minimum amount of assembly operations will be performed in the Virgin Islands.

Rather, the mechanism that insures meaningful economic activity in the U.S. territory is the Customs Service's interpretation of the manufacturing test, and in the particular case of watches, the allocation rules administered by the Commerce and Interior Departments.

In order to preclude any possibility that elimination of the foreign content limitation could result in avoidance of minimum assembly requirements, I am willing to offer an amendment to H.R. 5758, which would require the Secretaries of Commerce and Interior to include minimum assembly requirements in the regulations issued.

With this added statutory safeguard we can insure that the Virgin Islands will continue to benefit in a meaningful way from the watch operations and the program will not degenerate into a passthrough operation.

As far as I know, no U.S. manufacturers or labor organizations oppose this bill. From what I have been able to determine, there is strong support for the bill in most concerned Federal agencies. This bill, in fact, originated in the Departments of Commerce and Interior who administer the duty-free quota program.

There remains, however, some concerns within the administration about legislation having the effect of subsidizing this small industry. But my testimony before this subcommittee on the President's Caribbean Basin Initiative should have made it clear that we simply do not have the resources or wherewithal to attract new industries, particularly given some of the proposed CBI incentives to other Caribbean nations.

Enactment of H.R. 5758 would offer a reasonable prospect of reviving the territorial watch industry at a moderate cost. The alternative is the certain failure of the industry within the next year, with no prospect of substitute private-sector employment for several hundred workers in the territories.

This, in turn, would lead to economic and budgetary costs far greater than the costs of this bill.

Passage of H.R. 5758 this year is imperative. If the remaining insular watch industries leave, it will be virtually impossible to get them to return, despite the provisions in H.R. 5758.

The fiscal difficulties faced by the Virgin Islands Government add a particular urgency to this request to save what has been one of the strongest private-sector employers.

I urge your support.

Chairman GIBBONS. Of course, all of us want to cooperate with you, Mr. de Lugo. You do such a fine, vigorous job for your people there.

Mr. DE LUGO. Thank you very much.

[The prepared statement follows:]

STATEMENT OF HON. RON DE LUGO, A DELEGATE IN CONGRESS FROM THE TERRITORY OF THE VIRGIN ISLANDS

The U.S. Virgin Islands watch industry, which in the past has supplied 25 percent or more of our manufacturing jobs, is in its death throes. The industry, which at its peak provided over 1,300 jobs in 15 firms to permanent residents, is now down to 6 firms employing fewer than 200 people. Unless something is done in this Congress, we will be down to 3 companies employing no more than 100 people by the end of the year. Next year the 22 year old watch industry, our only truly successful headnote 3(A) industry, will be dead.

To the Virgin Islands the watch industry jobs are particularly important because 85 to 90 percent are filled by women, many of whom are their families sole breadwinners, and who lack the education or training to move into alternative private sector jobs, assuming such jobs existed. Also, these jobs are on St. Croix which relies more heavily on manufacturing employment than do the other Islands.

My bill is necessary to allow the watch companies in the Virgin Islands to convert their operations to production of quartz analog watches which have largely replaced in the U.S. marketplace the 17-jewel conventional watches predominantly produced in the Virgin Islands.

In the Multilateral Trade Negotiations (MTN) following the Trade Reform Act of 1974, duties were not reduced on these conventional jeweled watches for the sole purpose of protecting this important Virgin Islands industry. (At the time there was, and there remains, no jeweled watch production in the continental U.S.) The approach was successful because in 1981 over 50 percent of the 4 million 17-jeweled conventional watches imported into the United States came from the U.S. Virgin Islands. Unfortunately, the demand for this type of watch has declined to such a small share of the market (4.4 percent of 1981 U.S. watch consumption) that their production alone cannot justify Virgin Islands watch assembly operations.

The tariff structure on watches was developed in the 1930's when the number of jewels in a watch determined its quality. Because the new quartz watches have few, if any, jewels, they are subject to low duties which are declining further as a result of the MTN rate reductions. Thus, the headnote 3(a) duty-free entry incentive is not sufficient in and of itself to justify the production of quartz watches. The situation is further complicated by the fact that territorial wages are roughly fives times higher than those paid in the Hong Kong watch industry, the principal competitor to the Virgin Islands.

To provide the necessary stimulus to produce quartz analog watches in the Virgin Islands, my bill would cause the issuance to territorial assemblers of certificates based on a percentage of the wages the firms actually paid to permanent residents in the preceding calendar year in the production of headnote 3(a) watches. The certificates could be used by territorial producers, their stateside parents, or any transferee to secure refunds, up to the face value of the certificates, on duties that the U.S. had collected of foreign-manufactured watches imported into the United States.

The value of the present economic incentive available to watch assemblers on the Virgin Islands amounts to between $1.80 to $2.70 per watch, which represents the present duty applicable on 17-jewel watches imported into the U.S. In order to provide these watch assemblers with an economic incentive sufficient to induce them to assemble quartz analog watches on the Virgin Islands, my bill would provide for the issuance of the production certificates previously discussed, the value of which, when added to the present duty-free entry privlege and to the 79 cents to $1.15 duty of foreign quartz analog watches imported into the U.S., would be roughly equivalent to the value of the present economic incentive available to assemblers of 17-jewel watches.

The cost to the U.S. Treasury in duty refunds is minuscule in comparison with the benefit that would accrue to the Virgin Islands, or with the cost of government services that otherwise would have to be borne for these largely unemployable workers. In 1981 the United States collected an estimated $80 million in duties of imports of some 84 million foreign watch movements (cased and uncased). The cap I have placed on duty refunds, $5 million represents only 6 percent of the 1981 duties collected on watches. Actual projected costs in 1983 if my bill passes in 1982 will be something less than $2 million. In our view, refunds of this amount will stimulate the production in 1983 of at least 4 million watches, probably 85 percent of which will be quartz analog, providing wages of $4.5 to $5 million and employment for 400 to 500 people. Without the bill, we will have no watch industry by mid-1983 and be faced with providing food stamps, income maintenance, and other services which will far exceed the cost of this legislation.

Not only will my bill stimulate private sector employment in the territories, there would be beneficial effects for U.S. producers of watch-related products such as cases, bracelets, crystals and dials. Territorial firms are important customers of these U.S. products. If the insular industry disappears, the slack will be filled by Hong Kong or other far Eastern suppliers of watches. Since the great majority of direct imports are completed watches, these U.S. interests will suffer. Indeed, my bill has received strong expressions of support from watch dial manufacturers in Pennsylvania and Puerto Rico.

The bill would also eliminate the 70 percent foreign material content limitation on watches assembled in the territories under headnote 3(a). This change will give territorial producers additional pricing flexibility in the U.S. market to the benefit of U.S. consumers. The foreign content limitation arbitrarily established a minimum selling price in the United States for territorial watches based on the cost of the foreign components. For example, regardless of local labor input, overhead costs, and normal profit margins, a watch assembled in the Virgin Islands from foreign components costing $7.00 now must be sold in the United States for a minimum of $10.00. A watch with components costing $14.00, which would not necessarily cost any more than the $7.00 unit to assemble, must currently be sold for $20.00, a price that may not be competitive with duty-paid imports. Elimination of the foreign content requirement will simply give territorial producers more pricing flexibility, particularly on the slightly more costly units.

I pause here to stress that the foreign material content limitation is not a value-added requirement and does not, by itself, ensure that a minimum amount of assembly operations will be performed in the Virgin Islands. Rather, the mechanism that ensures meaningful economic activity in the Territory is the Customs Service's interpretation of the manufacturing test, and in the particular case of watches, the allocation rules administered by the Commerce and Interior Departments.

In order to preclude any possibility that elimination of the foreign content limitation could result in avoidance of minimum assembly requirements, I am willing to offer an amendment to H.R. 5758, Sec. 2(h) which would require the Secretaries of Commerce and Interior to include minimum assembly requirements in the regulations issued. With this added statutory safeguard we can ensure that the Virgin Islands will continue to benefit in a meaningful way from the watch operations and the program will now degenerate into a passthrough operation.

As far at I know, no U.S. manufacturers or labor organizations oppose this bill. From what I have been able to determine, there is strong support for the bill in most concerned Federal agencies. This bill, in fact, originated in the Departments of Commerce and Interior who administer the duty-free quota program.

There remains, however, some concerns within the Administration about legislation having the effect of subsidizing this small industry. But my testimony before this Subcommittee on the President's Caribbean Basin Initiative should have made it clear that we simply do not have the resources or wherewithall to attract new industries, particularly given some of the proposed CBI incentives to other Caribbean nations.

Enactment of H.R. 5758 would offer a reasonable prospect of reviving the territorial watch industry at a moderate cost. The alternative is the certain failure of the industry within the next year, with no prospect of substitute private employment for several hundred workers in the territories. This, in turn, would lead to economic and budgetary costs far greater than the costs of this bill.

Passage of H.R. 5758 this year is imperative. If the remaining insular watch industries leave, it will be virtually impossible to get them to return, despite the provisions in H.R. 5758. The fiscal difficulties faced by the Virgin Islands Government add a particular urgency to this request to save what has been one of our strongest private sector employers. I urge your support.

Chairman **Gibbons**. Before we discuss this further, I wonder if the other witness would like to be heard first.

STATEMENT OF JAMES S. WATERWASH, VICE PRESIDENT, BULOVA WATCH CO., INC., ACCOMPANIED BY LAWRENCE F. CODRARO, VICE PRESIDENT AND GENERAL COUNSEL

Mr. **Waterwash**. Good morning, Mr. Chairman, members of the committee.

I am James Waterwash; I am vice-president of the Bulova Watch Co., and president of the Atlantic Watch Corp., a wholly owned subsidiary of the Bulova Watch Co.

I am joined at the table by Mr. Larry Codraro, our vice president and general counsel of the Bulova Watch Co.

I would like to thank you for providing the Bulova Watch Co. this opportunity to testify before your committee regarding the proposed Virgin Islands watch legislation.

The Bulova Watch Co. strongly supports this legislation as it is now proposed and feels that the bill could be instrumental in reviving the watch industry in the Virgin Islands.

The Bulova Watch Co. has been assembling watches in the Virgin Islands since 1967 and at the the peak of our activity there, we employed over 200 people and assembled 1.2 million watches per year.

In addition, we have been very active in the training of local labor in the necessary horological skills to support the watch industry. During periods of major expansion, we have conducted inhouse on-the-job training programs, and have also actively supported training schools on the island with equipment, product and instruction.

In contrast to Bulova's previous employment of 200 people, we now employ 60 people and assemble approximately 300,000 watches per year. This drastic falloff in volume is the result of an industry shift away from mechanical jeweled watches and toward unjeweled analog quartz watches, and decreasing incentives due to the lowering of duty on watches imported directly into the U.S. mainland.

Because of this reduced activity, we have had to reassess the economic viability of continuing the Virgin Islands operation. Therefore, a decision was made to close the operation in August of this year.

Subsequently, we were informed of the proposed legislation and, as a result, we have placed our phaseout plans on hold until the outcome of this bill is finalized.

If the outcome is satisfactory, in a sense that we can justify a continued operation in the Virgin Islands, we would then begin to develop plans for the assembling of quartz analog movements on the island.

The main feature of the bill is the production incentive certificate program, whereby a significant percentage of our bona fide annual labor cost will be offset through negotiable import duty credits.

The production incentive certificate, as now proposed, could provide the necessary added incentives for manufacturers to set up a quartz analog assembly operation on the island.

As you know, the import duty on quartz watches is significantly less than on mechanical watches. Therefore, their duty-free entry into the United States, alone, is insufficient incentive to justify setting up a Virgin Islands quartz operation.

Bulova feels that there are enough safeguards built into the bill to prevent abuse with no benefit to the insular economy. Specifically, the "test for assembly" will insure that the island will not be used for low-labor content passthrough operations.

Also, the cap on the value of the production incentive certificates further insures a limit to the bill's cost, while at the same time adequately insuring the stimulation of the insular's economy and corresponding reductions in social costs.

An added benefit of Bulova's continued operations in the Virgin Islands would be that it would have the effect of preserving jobs on the U.S. mainland. Our Providence, R.I. Case Manufacturing Division and our New York City Watch Casing Division would all benefit from this decision.

At the present time, we employ approximately 750 people at the combined locations. A decision by Bulova to leave the Virgin Islands would divert more of our U.S. production activity abroad.

I am sure that the demise of other watch assemblers in the Virgin Islands would have a similar impact on U.S. jobs as it relates to dial, case and bracelet manufacturers.

In closing, I would like to say that your expeditious action on this bill is critically important in that we cannot delay our decision on our Virgin Islands operations much longer. As you know, the American watch industry is going through a very turbulent and critical period in its history.

Once we have closed the operation, sold the facility and the equipment, laid off our trained work force and relocated our technical people back to the mainland, the reinvestment required to start up operations again would be excessive and in all likelihood could not be justified with future incentives.

I will be glad to answer any questions. Thank you.

Chairman GIBBONS. Thank you.

I assume this is an important decision for Bulova and an important decision for the Virgin Islands.

Mr. Waterwash, you made a point that you need a rapid decision to be made. I don't think the House of Representatives will disappoint you, but the house of millionaires on the other side of this building has been sitting on some of our bills for over a year now. I know they are busy. So, I would appreciate if you would do a little lobbying on the other side.

Mr. de Lugo, maybe you could go talk to them, too. It is hard for them to understand people's livelihood does depend upon some of these bills.

I noted that only 41 of them are classified as millionaires over there now. It is a little hard for those people to relate to the reality of making a living, I am afraid. I would hope you would go over there and say something to them about it. I intend to. I have already done that.

Mr. WATERWASH. The reason I put that into the statement was that we have, in fact, delayed our decision already and it is because of this bill that we have.

As I stated, it is important that this decision be made as quickly as possible.

Mr. SCHULZE. Mr. Chairman.

Mr. Waterwash, perhaps you could do me a favor and describe for me in detail the assembly operation. What kind of parts do you get in? How much is involved in the assembly?

Mr. WATERWASH. At the present time, we add an average labor content in terms of dollars, which I think is probably the best way to describe it, of approximately $1.50 to $2, depending upon the type of watch we assemble.

Mr. Schulze. I would rather have it described in physical terms, if you can.

Mr. Waterwash. We basically receive mechanical parts and assemble them into 17 jeweled ladies' and men's watches. We receive the parts in what we call kits.

The kit includes the gear train, the balance assembly, the setting mechanism, the hands, the dials, all the screws, and the main housing of the watch. We then put these parts together. We have an assembly setup with approximately 60 people.

They are highly trained. The operation is a good one for us. We have had very little problems with it in terms of quality and performance.

Mr. Schulze. In other words, these are not preassembled watches? These are component parts? You do the entire assembly?

Mr. Waterwash. Yes, we do. We more than meet the test for mechanical assembly on the Virgin Islands.

Mr. Schulze. What overseas plans does Bulova or other overseas operations?

Mr. Waterwash. We now have an operation in Switzerland. We import mechanical watch components into the Virgin Islands from Switzerland. We also purchase kits from other manufacturers in Europe as well and do the assembling in the Virgin Islands.

Switzerland is our only other offshore manufacturing operation.

Mr. Schulze. Mr. de Lugo, perhaps you can answer my other question. What are the countries of origin of most of the components? Is that broken down by percentages? Or are they all coming from one source?

Mr. de Lugo. Primarily Switzerland, Germany, and Western Europe.

Mr. Waterwash. France also.

Mr. Schulze. Any idea of the percentages? Are the bulk from Switzerland?

Mr. de Lugo. We could supply that for the record.

[The information follows:]

The sources of parts used in the insular watch industry can vary significantly each year depending on the preferences/health of parent company and of source countries. In the early 1960's, Germany, Japan and France were major suppliers. In the early 1970's Japan stopped supplying insular firms when it decided to market directly to the U.S. mainland.

In recent years, Switzerland, France and Germany have been the major suppliers of insular watch parts. In 1980, Switzerland sourced 40 percent of the parts, France 26 percent and Germany 29 percent. The remaining 5 percent came from Hong Kong, Taiwan and the Soviet Union.

In 1981 Switzerland and France supplied about 80 percent of all watch parts, and Japan again became a supplier. Soviet parts dropped out completely in 1981.

Mr. Schulze. Ron, I realize that you have a problem; but would your bill, in effect, subsidize an otherwise dying industry? Is this just an outright subsidy to keep them in business for a short time?

Mr. de Lugo. I am glad you raised that question. I know you are very sensitive and the Congress is very sensitive to subsidies. This is not a dying industry. It merely recognizes the shift in consumer tastes.

The consumers on the mainland wanted jeweled watches in the past. At the present time, the taste has moved away from that as we said in our prepared statement to the quartz analog, which is the item that they want.

This would merely encourage the industry in the Virgin Islands to shift from the manufacture of the 17-jeweled watches to the quartz analog.

At the same time, the jobs that would be created would not come at the expense of U.S. jobs on the mainland. The only jobs that would be created would come—if they come at the expense of anyone—at the expense of Hong Kong and foreign countries.

Mr. SCHULZE. Any idea how many jobs would be created? You are anticipating that instead of a declining industry, it would become a growth industry?

Mr. DE LUGO. Yes. We estimate if this bill is passed this year, which is critical—if it doesn't get passed this year, we will not have any more industry—the number of jobs would double—at least double next year.

We are down to 200 jobs at the present time. We would go to probably 400 to 500 jobs by next year. It would continue to grow from there. We were at one time up to 1,300 jobs. In a small community like ours, that is a very significant number.

Also, as I pointed out, this industry has been so good for the Virgin Islands because the primary employees are women whose only employment alternative, prior to this, was to become housemaids or similar.

Now, here they are able to support their families in a meaningful way.

Mr. SCHULZE. Are the bulk of these jobs on St. Croix or any on St. John and St. Thomas?

Mr. DE LUGO. Most of them—the bulk of them are on St. Croix.

Mr. SCHULZE. Are any of them sold in Charlotte Amalie, the delightful jewelry shops along there?

Mr. DE LUGO. Yes. Some of them are sold in the local market. The vast bulk are shipped to the United States mainland.

Mr. SCHULZE. I thank our colleague and the gentlemen for their testimony.

Mr. FRENZEL. Mr. Chairman, I would like to ask the industry witness how this certificate works. You pay no duty when you ship your products to the United States under this bill; is that correct?

Mr. WATERWASH. Yes. That is the present situation. We do not pay duty on importing into the United States from the Virgin Islands.

Mr. FRENZEL. Yet when you get your certificate, you can then trade that in for a claim against the U.S. Treasury?

Mr. WATERWASH. Yes. We would use the certificate to offset duty we are paying on watch imports.

Mr. FRENZEL. When you say "we" you mean somebody else?

Mr. WATERWASH. No. Bulova, the Bulova Watch Co. We have more than enough import duty to be offset. In fact, this would in no way eliminate Bulova paying import duty.

Mr. FRENZEL. My problem is you are drawing out of the U.S. Treasury to subsidize one operation from another. Is this a real long-term opportunity for Bulova or will you be on the Virgin Islands as long as the taxpayers of the United States support you?

Mr. **Waterwash**. We will be on the Virgin Islands as long as we can economically justify being on the Virgin Islands. It is strictly a matter of operating philosophy.

Mr. **Frenzel**. Wouldn't we be better off just to give you a check at the beginning of every year instead of going through all the Mickey Mouse of certificates, adding up all the claims, playing around with them?

It seems to me we could save a whole bunch of overhead and maybe give you more money.

Mr. **Waterwash**. Because of the declining import duties, the dollar impact to the bill will not change the cost for the Treasury from what it has been for the past 10 or 15 years.

Basically, it is the shift away from mechanical watches that has caused the problem. I guess what I am saying is, if the duty-free import into the United States was a valid labor incentive for mechanical watches, why shouldn't it be valid for quartz watches as well?

Mr. **Frenzel**. Maybe I don't understand the bill. I bet Ron can straighten me out in a minute. My problem is, we gave you free import privileges. Now we are going to give you free import privileges plus a draw into somebody else's tax payment.

Mr. **Waterwash**. But they are not additive. In other words, under the present situation the labor credit that we would receive plus the duty savings on quartz watches would not be any more than the duty savings we are receiving on mechanical watches.

It is because of this transition from mechanical to quartz which as really caused the problem.

Mr. **Frenzel**. I understand the transition. I don't think it is any different than if somebody had some cheaper mechanical watches abroad. You would be in the same situation.

Mr. **Waterwash**. It would depend upon the number of jewels.

Mr. **Frenzel**. You are not competitive at the moment. You want to get competitive by having a rebate from the Treasury. Ron, where have I gone wrong in my analysis? Would you try to straighten me out?

Mr. **de Lugo**. They would not gain—as was pointed out, they would not gain any more incentive than they are presently getting in the production of the mechanical watch. We are simply giving them the same incentive that the Congress gave them to produce the mechanical watch.

The problem is that if they don't have this, then we are just going to see—we are going to lose U.S. jobs and the U.S. consumer will be buying foreign-produced quartz analog watches primarily produced in Hong Kong and providing jobs in Hong Kong.

That, basically, is it.

The use of the certificate—the reason they are not just handed a check is because the bill is so written and the certificates are so used as to make sure these jobs are created and this work is actually done in this U.S. territory.

Mr. **Frenzel**. It seems to me you would be getting the same deal if you were able to ship quartz watches to the United States duty free; but you are adding an extra deal of a $5 million bonus out of customs duties paid elsewhere.

Mr. DE LUGO. I would just note, Bill, that bill has been worked on, I can tell you, for a long time. It did not originate in my office. It originated over there with the people that have administered this program since its inception, the people over in Commerce, and in the Interior Department.

They agonized over this. They now feel, that we have a bill that will do what the Congress originally intended and that will keep this industry alive and that will provide the jobs.

I might also say that yesterday I called up Ambassador Brock at the USTR and asked him for his support. He told me that he personally had no problems with it.

That was good news to me.

Mr. FRENZEL. Thank you very much, gentlemen. I wish you could have come up with something a little simpler than this.

Chairman GIBBONS. Well, I think Mr. de Lugo explained it. This bill was born over in the bureaucracy. You can't expect them to come up with something that is too simple.

Mr. de Lugo, what we are worried about is that this will just become a passthrough type operation, because that would adversely affect some of our domestic manufactured watches.

I think we have assurance from Bulova and your assurance, Mr. de Lugo, this will not just be a passthrough operation; is that correct?

Mr. DE LUGO. That is correct. I think we have provided the language in there to make sure it will not be.

Chairman GIBBONS. If we pass this, if we find out it is going to be a passthrough operation, we will come back and take it away.

Mr. DE LUGO. Absolutely. I will support that.

Mr. WATERWASH. There are safeguards in the bill to prevent that.

Chairman GIBBONS. Yes, sir. The people from Bulova understand that also; is that correct?

Mr. WATERWASH. Yes, sir.

Chairman GIBBONS. Thank you very much.

Our next bill is a bill by Mr. Guarini, H.R. 5764, relating to tariff treatment of dolls and certain other toy figures.

We have witnesses from the Knickerbocker Toy Co. Mr. McCarthy and Mr. Lorinczi.

STATEMENT OF JOHN A. McCARTHY, SENIOR VICE PRESIDENT, KNICKERBOCKER TOY CO., ACCOMPANIED BY GEORGE G. LORINCZI, COUNSEL; AND JOEL S. AVREN, GENERAL TRANSPORTATION MANAGER

Mr. MCCARTHY. Good morning.

I am John A. McCarthy, a senior vice president of Knickerbocker Toy Co. of Middlesex, N.J. We are a leading importer, marketer, and distributor of toys. A significant part of our line is composed of the toys covered by H.R. 5764, introduced by Congressman Guarini.

The stuffed toy industry in the United States is an import business. Stuffed dolls and toys cannot be produced economically in the United States.

We are one of many importers of soft, filled toys who support H.R. 5764, which seeks to remove duties imposed on this class of merchandise. The administration, in its testimony, indicated that it supports the bill if certain modifications are made.

I understand that these modifications involve three changes:

One, defining the terms "inanimate objects" and "skins" in the bill,

Two, change of duty elimination to a 3-year duty suspension, and

Three, continuation of duties on stuffed animals.

Knickerbocker fully supports the technical changes suggested by the administration. These will strengthen the bill and eliminate certain potential confusion in terminology.

On duty suspension, we prefer complete elimination of duties but we fully understand the administration's recommendations that duties be suspended for 3 years.

However, we strongly disagree with the administration's insistence that duties be continued on stuffed animals. We believe that continuation of the duty will only penalize the American toy industry and ultimately the consumer.

Also in response to Congressman Frenzel's earlier questions about bargaining chips, we also question the extent to which an item of this nature should be caught up in larger future negotiations.

In addition, the administration indicated to your staff that the bill as modified would not affect any product manufactured in this country. This would be true even if duties were eliminated on stuffed animals as well as the other categories of toys covered by the bill.

Mr. Chairman, I want to thank you and members of the subcommittee for the opportunity to speak with you today. If you have questions, I would be happy to address them.

[The prepared statement and miscellaneous material follow:]

STATEMENT OF JOHN A. MCCARTHY, SENIOR VICE-PRESIDENT, KNICKERBOCKER TOY CO.

SUMMARY

Knickerbocker Toy Co. strongly supports H.R. 5764. The bill will eliminate unnecessary barriers to free trade.

STATEMENT

Good morning. I am John A. McCarthy, a senior vice-president of Knickerbocker Toy Co. of Middlesex, New Jersey. We are a leading importer, marketer and distributor of toys. A significant part of our line is composed of the toys covered by H.R. 5764, introduced by Congressman Guarini.

Gross revenue of the company for 1982 is expected to exceed $145 million, up from $90 million in 1981 and $70 million in 1980. Knickerbocker has 670 employees in its domestic operations, up from 615 a year ago, and we are currently hiring new employees. All our employees are engaged in some aspect of stuffed or otherwise filled doll and toy operations.

The stuffed toy industry in the United States is an import business. Stuffed figures and dolls are imported in bulk and then packaged and distributed by domestic employees. In addition, the outer covering of the larger dolls and toys are imported without filling and are then filled in this country. The domestic industry encompasses approximately 230 firms, of which the 20 largest constitute the bulk of U.S. employment.

In addition to stuffed toys, the bill would eliminate duties on doll clothing and skins of toy figures. Skins are the unstuffed outer covering of dolls and toy figures. These skins are filled or stuffed by domestic assemblers.

Under the bill, duties remain on toy figures with spring mechanisms and those made wholly or almost wholly of metal, rubber or plastics, since there is some domestic production in these categories, as contrasted with the items covered by the bill. There is also very limited domestic production of expensive dolls which are given individualized "birth certificates" and are sold as collectors' items. However, there are no imports of these items and, therefore, eliminating duty on this item will not affect this domestic product. No industrial source was found that opposes these narrow tariff modifications.

We are one of many importers of soft, filled toys who support H.R. 5764, which seeks to remove duties imposed on this class of merchandise. The Administration, in its testimony, indicated that it supports the bill if certain modifications are made. I understand that these modifications involve primarily defining the terms "inanimate object" and "skins" used in the bill. The Administration has indicated to your staff that the bill as modified will not affect any product manufactured in this country. While the Administration's proposal is not yet in final form, we are hopeful that the changes suggested by the Administration will prevent abuse without undermining the overall purpose of the legislation.

The bill's purpose is to eliminate unnecessary barriers to free trade. Stuffed dolls and toys cannot be produced economically in this country. As noted, this bill has been crafted so as not to harm the American manufacturing industry. In fact, the bill will greatly aid American industry and jobs by insuring greater activity by domestic distributors, wholesalers, and retailers.

Elimination of duties will be good not only for the toy industry but for the economy as a whole. In addition to increased employment for domestic toy companies, duty elimination will provide increased work for other companies and industries. Knickerbocker alone supplies work for over 600 domestic supply and service organizations.

It is important to note that most of the goods covered by the bill are presently classified under the Generalized System of Preference (GSP) and, depending on the country of origin, are temporarily imported duty-free. Unfortunately GSP treatment is subject to relative and absolute quotas on an individual item basis, with a view toward ultimate graduation of the item from GSP status because of achieved volume. Hence, GSP is, by definition, an unsuitable long-term solution to the problem of high rates of duty, since GSP has no effect on the rates of duty but serves only to temporarily suspend them.

In this age of continuing inflation, eliminating duties will also lower costs to consumers, with a resulting increase in sales. This increased sales volume will benefit wholesalers and retail operations, as well as the domesic distributors. At each level of the supply chain, elimination of duties will result in increased sales and employment. All of this heightened activity will result in increased tax revenues. Accordingly, we strongly believe that the aggregate impact upon Federal revenue will be small.

It is ironic that the requirement for the Particular class of toy covered by this bill hits the consumer—the young parent—at a time in his economic life when he is least able to afford it. To continue unnecessary duty in the name of protection of non-existent domestic industry is to blindly impose yet another economic sanction against an already overburdened segment of our nation.

My purpose in appearing here today is to personally assure you that I, my colleagues at Knickerbocker, and the majority of importers of soft, filled toys, as evidenced by their leteters of support—were are all pledged to do battle against inflation and its ruinous effects upon our economy. We are committed to demonstrating to the public and to ourselves that we are ready, willing, and able to pursue and to carry out those economies which will serve as the foundation for the achievement of present stability and future expansion of a vital segment of American industry.

Elimination of these duties is an obvious and important step in this direction. To accomplish it, I urgently solicit your help. You and I, working together, can show beyond all doubt what can be achieved by responsive representative government and prudent management of the private sector.

Mr. Chairman, I want to thank you and the members of the subcommittee for the opportunity to speak with you today. If you have any questions, now or later, I would be most happy to address them.

[The following was subsequently received:]

KNICKERBOCKER TOY CO., INC.,
Middlesex, N.J., June 4, 1982.

Attention: Randall M. Overbey.
Hon. SAM M. GIBBONS,
Chairman of the Subcommittee on Trade,
Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: It is our understanding that Hasbro Toy Company, a company with a line of goods unrelated to items covered by H.R. 5764, has sent a telex to your attention objecting to the Bill because, according to Hasbro, H.R. 5764 will benefit one segment of the toy industry and effectuate a shift in the American toy market.

There is no merit to Hasbro's claims. Hasbro's line of goods consists primarily of hard toys. Soft and hard toys represent two distinct markets which do not compete with one another, as is evident from Knickerbocker's experience with its total line, which is composed of both hard and soft toys. This Bill deals only with those soft toys which are not manufactured domestically.

The Bill will benefit all companies, importing, stuffing and distributing those soft figures covered by the Bill. Letters of support have been received from the overwhelming majority of the industrial concerns in this field, including, for example, Kenner Products, the major distributor of soft figures, and Determined Productions, which licenses Snoopy products. It is important to note that Knickerbocker Toy Company has undertaken an industry-wide survey. Because of objections from some industry sources, hard toys were not included in the Bill. As we have stated to the Committee in written and oral testimony, the Bill has been carefully crafted to avoid any adverse impact upon any domestic manufacturing enterprise.

Lastly, I should indicate that Knickerbocker Toy Company is the only toy company which has publicly testified in support of the Caribbean Basin initiative. H.R. 5764 will not affect Knickerbocker's intention to expand operations in the Caribbean.

I hope this information serves to adequately clarify this matter. If I can provide additional assistance, please contact me.

Sincerely yours,

JOHN A. MCCARTHY,
Senior Vice-President, Operations.

[Telegram]

HASBRO INDUSTRIES INC.,
Rhode Island May 28, 1982.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Cannon House Office Building, Washington, D.C.

DEAR CONGRESSMAN GIBBONS: Congressman Guarini has submitted a bill with amendment H.R. 5764 which deals with making certain TSUS category in the toy field duty free.

We at Hasbro Industries oppose this. Hasbro is a Rhode Island based company manufacturing toys. We employ approximately 1,250 people.

We oppose this bill as it is selfish and addresses itself to only one side of the toy industry. All toys are competitive with one another and if the consumer buys "X" he cannot afford to buy "Y".

The bill addresses itself to only one aspect of our industry and therefore could conceivably create an unfair advantage to those in that sector of our business which, in turn, could create a significant loss of jobs in other sectors of the industry.

Many of us as importers have always had to pay duties. Due to the "Tokyo Round" our rates have been substantially reduced; duty rates are not hardship and they have helped balance some of our balance of payments. As an American, I implore you to make up your mind—stop on an ad hoc willy nilly manner, ruling on individual issues. This resolution is so self-centered to a few companies and does not even beg the question of reciprocity.

I hope you are aware that our administration approved legislation to help the Caribbean Basin just recently—this will adversely impact such legislation.

Last, please understand you will open the flood gate to fallen competition. No one is being hurt economically by leaving things as they are. However, by changing and adapting this bill jobs will be lost, our balance of trade will find further deficit and most importantly, you yourself have blessed imports over further investments in our own firms in the U.S.

Prior to adoption, I implore you to do due diligence.

Thank you for hearing me.

Warmest regards,

ALAN G. HASSENFELD,
Executive Vice President.

Chairman GIBBONS. Thank you for coming to talk about this bill. We will remember what ~~you had to say~~. Any questions?

Mr. FRENZEL. I have a question. Anybody know why the administration opposed stuffed animals and wants to negotiate them, but doesn't oppose the rest of the bill?

Mr. MCCARTHY. As we understand, because they come from Korea. They want to preserve bargaining chips.

Mr. FRENZEL. Thank you.

Chairman GIBBONS. Thank you very much.

Our next bill is H.R. 5786 by Mr. AuCoin, athletic wear.

STATEMENT OF MITCHELL COOPER, COUNSEL, FOOTWEAR DIVISION, RUBBER MANUFACTURERS ASSOCIATION, ACCOMPANIED BY STEPHEN STONE, PAST CHAIRMAN OF THE BOARD, CONVERSE RUBBER CO.; AND LEONARD FISHER, PRESIDENT AND CHIEF EXECUTIVE OFFICER, HYDE ATHLETIC FOOTWEAR

Mr. COOPER. I am Mitchell Cooper, counsel of the Footwear Division of the Rubber Manufacturers Association. I have to my right Leonard Fisher, president and chief executive officer of Hyde Athletic Shoe Co.; and to my left, Stephen Stone, past chairman of Converse Rubber Co. They are here with me to answer any questions the committee may have.

The Footwear Division, with the exception of Nike, Inc., which is a member of this association, opposes the enactment of H.R. 5786. The Footwear Division includes among its members manufacturers of most of the athletic footwear made in this country.

This bill provides an added inducement for charitable giving which would be available to importers but not to the domestic producers of athletic footwear. If such organizations as CARE, the National Association of Sports for Cerebral Palsy, the National Wheelchair Association, Special Olympics, or the Catholic Relief Services have had difficulties in obtaining donations of athletic footwear, they have not communicated this difficulty to the domestic industry.

Our industry is proud of our record of giving to worthy causes. At this point, I feel I must intersperse in my testimony a comment with respect to the Nike testimony which I have just had an opportunity to read and which casts aspersions on the charitable donations of the domestic industry.

I am sure that such aspersions are not deliberate, but are simply out of a lack of knowledge of what the domestic industry has done for worthy causes. In the files of this committee, in connection with this bill, you will find wires and letters from various athletic footwear producers which detail some of their contributions.

I want to read into the record one short paragraph extracted from a telegram that Converse Rubber Co. sent to David Rohr on the 12th of May.

> Converse's North Carolina plant has contributed to the local Special Olympics approximately 2,000 pairs of athletic footwear, 5,000 T-shirts and over 200 man-hours of volunteer time.

Moreover, Converse offered to provide all of the athletic footwear requirements for the Special Olympics at Louisiana State University in 1983. Although Special Olympics rejected this offer because of a previous arrangement with Nike, Converse has agreed to provide all of the athletic bags, socks, and T-shirts required by participants and staff at the 1983 games.

In 1977 and 1978, Converse donated 300,000 pairs of athletic footwear and 100,000 units of accessories, T-shirts, warm-up suits to the Catholic Relief Service. In 1979 and 1980, Converse donated over 450,000 pairs of athletic footwear to CARE, Inc.

In addition, we provide all the athletic footwear needs and 8,000 pairs of athletic shoes each year to the Martin Luther King Boys' Club in Chicago.

All of Converse's contributions have been made without the kind of subsidy which would result from H.R. 5786 exemption from duties.

That is the end of my quote from the wire.

The tax code already permits this industry and its import competition a charitable deduction for the kinds of contributions about which we are speaking, and the industry has not thought it necessary to ask for any greater inducement.

We are aware that the principal proponents of this bill are our friends and colleagues at Nike. Nike is a distinguished manufacturer and importer of athletic footwear. It has had a program of gifts to Special Olympics which is highly commendable. That program, incidentally, is comparable to gifts to other worthy causes by domestic companies in this industry.

I have made available to the committee staff an analysis by Price Waterhouse of the consequences to an importer of the kind of duty relief which would be provided by H.R. 5786. That analysis shows, for example, that an imported basketball shoe whose invoice value is $4.05 carries a duty of $2.42 and would, if given to an organization for the handicapped, result in a net cost to the importer of $2.81.

The same shoe, if relieved of duty would produce a net cost to the importer of 97 cents. This difference of $1.84 a pair between net cost with duty and without duty will, of course, not be passed on since the shoes in either case are a gift.

This bill does not give a savings comparable to relief from duty to a domestic manufacturer with a similar gift program, but I want to assure this committee, and my colleagues on either side can speak to this if they choose to do so, if Nike finds that, absent this bill, its net costs are excessive as a result of its gifts to Special Olympics, its domestic competitors stand ready to meet Special Olympics' needs on the same basis as Nike is now meeting them.

In short, H.R. 5786 provides a substantial benefit to importers not available to their domestic competitors and provides such a benefit in the absence of any demonstrated need for an added inducement in order to fulfill the requirements of organizations which aid the handicapped.

We ask nothing more than that imports and domestic production be placed on an equal footing insofar as gifts to worthy causes are concerned.

If, in the judgment of this committee, H.R. 5786 is a necessary inducement for gifts to the handicapped, we would urge that the bill be amended to provide for an increase in the present ceiling for charitable deductions by domestic companies, so equity will be served between importers and producers of domestic products.

I have been asked by some people in the executive branch why an importer should be burdened with duties for footwear destined solely for charitable purposes. The answer, Mr. Chairman, and members of the committee, is that the way to avoid duties for such a purpose is to give footwear made by underemployed American workers at American wages.

H.R. 5786 will serve only to encourage the manufacture of such footwear in Korea or the People's Republic of China rather than in the United States.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF MITCHELL J. COOPER, COUNSEL, FOOTWEAR DIVISION, RUBBER MANUFACTURERS ASSOCIATION

SUMMARY

H.R. 5786 provides favored treatment for importers, as against domestic manufacturers, of athletic footwear given to organizations which aid the handicapped.

The lower costs to importers resulting from this bill will not be passed on to charitable organizations since the athletic shoes in question are gifts in any case.

The bill is unnecessary since the domestic industry stands ready to meet athletic footwear needs of organizations which help the handicapped.

If the Comittee considers the H.R. 5786 inducement to importers necessary to meet the needs of organizations aiding the handicapped, the bill should be amended so as to provide comparable inducement to domestic manufacturers.

One effect of this bill would be to encourage manufacture in Korea and the People's Republic of China of athletic footwear to be given to charity, rather than having such footwear manufactured by American workers in American plants.

STATEMENT

Mr. Chairman and Members of the Committee: My name is Mitchell Cooper and I am testifying as counsel for the Footwear Division of the Rubber Manufacturers Association. The Footwear Division, with the exception of NIKE, Inc., opposes the enactment of H.R. 5786.

The Footwear Division includes among its members manufacturers of most of the athletic footwear made in this country.

This bill provides an added inducement for charitable giving which would be available to importers but not to the domestic producers of athletic footwear. If such organizations as CARE, the National Association of Sports for Cerebral Palsy, the National Wheelchair Athletic Association, Special Olympics, of the Catholic Relief Service have had difficulty in obtaining donations of athletic footwear, they have not communicated this difficulty to the domestic industry. This is an industry which is proud of its record of giving to worthy causes. The tax code already permits us and our import competition a charitable deduction for such contributions, and we have not thought it necessary to ask for any greater inducement.

We are aware that the principal proponents of this bill are our friends and colleagues at NIKE. NIKE is a distinguished manufacturer and importer of athletic footwear. It has had a program of gifts to Special Olympics which is highly commendable. That program is comparable to gifts to other worthy causes by domestic companies in this industry.

I have made available to the Committee staff an analysis by Price Waterhouse of the consequences to an importer of the kind of duty relief which would be provided by H.R. 5786. That analysis shows, for example, that an imported basketball shoe whose invoice value is $4.05 will carry a duty of $2.42 and will, if given to an organization for the handicapped, result in a net cost of $2.81. The same shoe if relieved of duty would produce a net cost to the importer of 97 cents. This difference of $1.84 per pair between net cost with duty and without duty will of course not be passed on, since the shoes in either case are a gift. This bill does not give a saving comparable to relief from duty to a domestic manufacturer with a similar gift program, but I assure this Committee that if NIKE finds that, absent this bill, its net costs are excessive as a result of its gifts to Special Olympics, its domestic competitors stand ready to meet Special Olympics' needs.

In short, H.R. 5786 provides a substantial benefit to importers not available to their domestic competitors and provides such a benefit in the absence of any demonstrated need for an added inducement in order to fulfill the requirements of organizations which aid the handicapped.

We ask nothing more than that imports and domestic production be placed on an equal footing insofar as gifts to worthy causes are concerned. If in the judgment of this Committee HR 5786 is a necessary inducement for gifts to the handicapped, we would urge that the bill be amended to provide for an increase in the present ceiling for charitable deductions by domestic companies, so that equity will be served as between importers and domestic producers of comparable products.

Finally, I have been asked by people in the Executive Branch why an importer should be burdened with duties for footwear destined solely for charitable purposes. The answer is that the way to avoid duties is to give footwear made by under-employed American workers at American wages. H.R. 5786 will serve only to encourage the manufacture of such footwear in Korea or the People's Republic of China rather than in the United States.

ATTACHMENT NO. 1—MEMBERS OF FOOTWEAR DIVISION OF THE RUBBER MANUFACTURERS ASSOCIATION

Bata Shoe Co., Belcamp, Md.; Converse Rubber Co., Wilmington, Mass.; Etonic, Inc., Brockton, Mass.; Gold Seal Rubber Co., Boston, Mass.; Hyde-Spotbilt Athletic Footwear, Saucony, Cambridge, Mass.; Kaysam Corp. of America, Paterson, N.J.; LaCrosse Rubber Mills Co., LaCrosse, Wis.; New Balance Athletic Shoes USA, Boston, Mass.; NIKE, Inc., Beaverton, Oreg.; Prevue Products Co., Manchester, N.H.; Tingley Rubber Corp., S. Plainfield, N.J.

Chairman GIBBONS. Thank you. Do any other members of the panel wish to be heard at this time?

Mr. SCHULZE. Mr. Chairman, very briefly.

In your testimony, you stated some cost figures, invoice value of $4.05, a duty of $2.42, which is about $6.50 cost on an average pair of basketball shoes. What approximately would be the retail value of that pair of shoes?

Mr. COOPER. It would be in excess of double. The experts are sitting beside me. Could you say, offhand, what the approximate retail value would be?

Mr. STONE. About $16.

Mr. SCHULZE. $16?

Thank you, Mr. Chairman. No other questions.

Chairman GIBBONS. Mr. Jenkins.

Mr. JENKINS. Thank you, Mr. Chairman.

Mr. Cooper, let me make sure I understand what you are saying. In other words, with the passage of this bill, that would make no difference to the ultimate beneficiary? The Special Olympics will get the shoes either way and there is no direct benefit to the recipient group, the Special Olympics?

Mr COOPER. That is absolutely right, Mr. Jenkins, unless the intended beneficiary of this bill is Nike, who has the Special Olympics. The Special Olympics does not stand to get one additional pair of shoes as a result of this bill.

The domestic industry—and I hope in this respect I could speak for Nike, which has domestic plants and is a member of this association, but apparently gives its gifts from its imports rather than from its main production—the domestic industry would be prepared to make up any differrence that Nike feels it can no longer give because its costs are too burdensome.

Mr. JENKINS. If I understand what you are saying, if Nike cannot or should decide not to make the donation of the shoes, the domestic industry stands willing and able to do that?

Mr. COOPER. It will fulfill the commitment that Nike has made to the Special Olympics. They would do it on the same terms Nike has done it.

Mr. JENKINS. I am trying to ascertain if there is any real reason why the bill should be limited to just footwear, and why it wouldn't include other athletic equipment?

Mr. COOPER. Mr. Jenkins, I have just seen a copy of the wire that the Sporting Goods Manufacturers Association has sent to the chairman and to the staff of this committee expressing concern that if this bill is good for footwear, why shouldn't it be good for such athletic equipment as baseball gloves, baseball bats, basketballs which are imported and given to charitable causes, suggesting that the effect on the domestic operations of such industries for whom the Sporting Goods Manufacturers Association speaks would be comparable to the effect on the domestic industry that is before you this morning.

I don't know why this bill was written in terms of athletic footwear, if you are concerned about the ultimate beneficiary, the organizations that aid the handicapped.

Mr. JENKINS. How do they ascertain the amount of these charitable contributions? Do you first ascertain the cost and then the fair market value? Is it the difference between the cost and 50 percent of the excess between that and fair market value?

Mr. COOPER. That is essentially correct. If you take a shoe, the cost of which is $5, including duty or in the absence of duty, if this bill were to go through, the cost would, of course, include duty, if duty were there.

You take the cost to the importer. You then, as I understand it from the Price Waterhouse analysis, which has been made available to the staff of this committee, you take the fair market value for which that shoe could be sold; you then take the difference between cost and fair market value.

If cost is $5, fair market value is $10, the difference is $5. You take half of that difference, which would be $2.50. You add that to the cost, which gives you a $7.50 base on what you would then computer your deduction.

Mr. JENKINS. The only thing I wanted to make clear in my own mind—and I am sure it would enter other members' minds also—the passage or defeat of this bill will in no way affect the footwear or other equipment that would be donated?

Mr. COOPER. I can only speak for footwear, Mr. Jenkins. My colleagues are here, I think, to speak for their domestic colleagues, to give you that assurance.

Mr. JENKINS. Thank you.

Chairman GIBBONS. Further questions?

Thank you very much.

Next we will hear from Nike, David H. Smith and Robert M. Montague.

STATEMENT OF DAVID H. SMITH, EAST COAST COUNSEL, NIKE, INC., ACCOMPANIED BY JAMES KENIN, SPECIAL COUNSEL

Mr. DAVID SMITH. Good morning, Mr. Chairman, other distinguished members of the committee.

I am David H. Smith, east coast counsel for Nike, Inc. I am pleased to appear before this committee to testify in support of H.R. 5786. It had originally been planned that General Robert Montague, executive director of Special Olympics, would be present today to answer questions the committee might have concerning this legislation.

Unfortunately, General Montague is not able to be present today. I apologize to the committee for this late change. I am certain, however, General Montague would be pleased to respond by phone or in writing to any inquiries that the committee members or staff might have of him on behalf of the Special Olympics.

The gentleman to my left is Mr. James Kenin, Special Counsel to Nike.

I earlier summarized my formal written statement. Because of your caution, Mr. Chairman, to keep these remarks brief, I have been further summarizing my summary as I have been waiting here.

I would like to tell the committee a little bit about Nike and its own program of charitable contribution of athletic footwear and how enactment of H.R. 5786 would help us maintain and expand that program.

I previously supplied the committee with a copy of the formal agreement between Nike and the Special Olympics concerning footwear donations. Since the execution of this agreement last fail, Nike has donated approximately 250,000 pairs of athletic footwear to Special Olympics.

Of this total, approximately 241,000 pairs were imported for donation and the balance of approximately 9,000 pairs were, in fact, domestically manufactured in our New England facilities and thereafter donated to the Special Olympics.

Donated footwear is composed primarily of running and basketball shoes with nylon, canvass and leather uppers. We know Special Olympics is most pleased to receive these shoes, and to date, it has been able to distribute all of them among 44 of their 50 State chapters.

We know, as well, that without the continuing support of contributions in cash and in kind from the corporate sector, the Special Olympics would not be able to carry out its fine program in the fashion which its very special, athletes deserve.

Nike's intentions are to donate an additional minimum of 100,000 pairs of athletic shoes each fiscal year to Special Olympics and/or other similarly-situated charitable organizations. The relief of payment of customs duties on footwear imported for donations provided by H.R. 5786 would enable Nike to expand this program and thereby reach the thousands of handicapped athletes who as yet do not in fact have access to high-quality athletic footwear.

We believe as well that enactment of this legislation would give incentive to other manufacturers of athletic shoes to initiate their own program of importation for donation similar to Nike's, although probably on not as large a scale as Nike's.

We believe enactment of H.R. 5786 would provide this incentive at minimal loss of revenue to the Federal Treasury. Nike is able to estimate that under current law, the duty which would be paid on its shoes imported for donation would average out to $1.59 per pair.

Nike estimates that 22 percent of the customs duty loss on those shoes which qualify for the charitable contribution deduction would be recaptured, in fact, by the Internal Revenue Service—in the form of corporate income tax—by virtue of the decreased contribution deduction bases, as Mr. Cooper earlier referred.

I would also like to point out—and it may indeed be the case Mr. Cooper has corrected this inaccuracy in his statement just now—that in previous information supplied to this committee, members of the domestic industry stated that corporate donors of athletic footwear to charitable organizations are entitled to a charitable contribution deduction equal to the full market value of the contributed footwear.

This is simply not true. Section 170(e)(3) of the Internal Revenue Code is the applicable statute for calculating this deduction. As Mr. Cooper just explained, it is significantly less than the full market value of the donated product.

Similarly, Nike does not believe enactment of H.R. 5786 would create an onerous burden on the Customs Service in terms of enforcement. The 241,000 pairs of shoes previously donated to Special Olympics by Nike were transported in specially marked boxes by only two ships, each of which entered the Port of Portland, Oreg.

These comprised only two separate entries for customs purposes, and thus minimized the expenditure of manpower by the Customs Service.

H.R. ~~5786~~ is also a very unique measure and therefore would not create a precedent with far-reaching trade consequences. There are many aspects of H.R. 5786 which make it clearly distinguishable from proposals for similar treatment of, for example, apparel, accessories, or any other products which in some fashion might be used by charitable organizations.

The bill is being considered in the International Year of the Disabled. It addresses the needs of organizations fulfilling three distinct criteria.

(A) Nonprofit organizations, which (B) are established for the purpose of organizing or sponsoring athletic competition; and (C) for the mentally retarded or physically handicapped.

Athletic footwear is uniquely suited to the needs of these organizations in real terms in that it is designed specifically for the individal events in which the handicapped athletes participate, thereby improving performance and more importantly, reducing the risk of injury.

High-quality athletic shoes also are not within the financial means of a large segment of handicapped athletes. Similarly, donations of footwear from domestic sources have not in the past met the needs of the total number of charitable institutions which this legislation is designed to assist.

Mr. Chairman, we are, in fact, disappointed and a little bit shocked at the claim of the domestic footwear industry that organizations such as the Special Olympics have had no difficulty in fulfilling their footwear needs by donations in the past by domestic manufacturers.

The fact of the matter is that no domestic manufacturer has ever maintained a significant donation program which has come close to meeting the needs of all of these organizations.

Indeed, the executive director of Special Olympics has advised the domestic industry that no other manufacturer of athletic footwear other than Nike has ever offered any signficant support to Special Olympics, for example, on the national level.

The fact is that the need for donations of footwear for charitable purposes exceeds the capability of the domestic industry to meet that need. The Special Olympics program is just one of many. It is the world's largest program for the handicapped in sports. It counts in its membership approximately 1 million retarded individuals, at least 700,000 of whom by Special Olympics figures come from economically deprived backgrounds.

On an annual basis, almost on a monthly basis, some 19,000 local programs in every congressional district and State in this country are carrying on activities for their Special Olympians.

Nike's contribution to date of 250,000 pairs of shoes did not reach much more than a third of those 700,000 economically deprived. Our association with Special Olympics prior to this year, which had been primarily in the New England chapters, led us to learn, as a matter of fact, that many of the Special Olympians participating in those events did so without wearing athletic shoes.

In arguing that it can fill the footwear needs of these sorts of charitable organizations, the domestic industry would have us ignore another fairly obvious fact. Athletic footwear has become commonplace in the everyday wardrobe of most Americans. Running, tennis and basketball shoes are used for streetwear as much as for sporting events. The domestic industry should therefore count among those charitable organizations deserving its attention the Red Cross, Salvation Army, CARE, Purple Heart, Boys' Clubs of America, United Way, and hundreds of other such organizations.

We are pleased to learn of the previous donations of Converse. We think that involvement is laudable. But we do not agree that we are dealing with a limited universe of charitable organizations who merit the attention of corporate sponsorship.

What we do agree with in Mr. Cooper's statement so far is that if H.R. 5786 is enacted, it would enable us to justify importation of more shoes for donation. Not simply to the Special Olympics, but perhaps as well to other organizations similarly situated.

This is really all we are interested in. Our interest is not recouping corporate revenue. It is rather to assure that all of the handicapped athletes who deserve our attention will be able to wear footwear, whether it be Nike, Converse, or any other footwear manufactured domestically or abroad.

We firmly believe that the combined resources of importers as well as domestic manufacturers are required to fulfill this need. In opposing this legislation, the domestic footwear industry seeks to assure that Nike's participation in this task will be limited.

Mr. Chairman, if enacted, H.R. 5786 would be a clear message of encouragement from Congress to mentally and physically handicapped athletes and to those other footwear manufacturers who, like Nike, desire to import athletic shoes for donation.

It is especially timely in this, the International Year of the Disabled, for Congress to consider this measure. President Reagan has on many occasions cited the need for the private sector to step into the breach occasioned by the cutback in Federal support of programs to aid the disadvantaged.

This legislation gives substance to the spirit of President Reagan's message. If enacted, it would be of definite assistance to Nike. In its efforts to help the handicapped athletes who participate in Special Olympics.

We urge you to recommend the enactment of the legislation as drafted.

[The prepared statement follows:]

STATEMENT OF NIKE, INC., AS PRESENTED BY DAVID H. SMITH, EAST COAST COUNSEL, NIKE, INC.

I. INTRODUCTION OF NIKE, INC.

Mr. Chairman and other distinguished members of the committee, my name is David H. Smith and I am East Coast Counsel for NIKE, Inc. NIKE, Inc., of Beaverton, Oreg., is an American corporation engaged in the manufacture and distribution of high quality athletic footwear, active sports apparel and related accessories. The company began marketing athletic footwear under the NIKE brand name in 1971. Since then, NIKE has experienced rapid growth and believes that now it is the largest distributor of athletic footwear in the United States and the third largest in the world. Approximately 90 percent of NIKE footwear is manufactured to the company's specifications overseas, primarily in Korea and Taiwan. The balance is manufactured in five company-owned factories located in New Hampshire and Maine. NIKE also maintains major distribution facilities in Portland, Oregon, Greenland, New Hampshire, and Memphis, Tenn.

II. NIKE'S RELATIONSHIP WITH SPECIAL OLYMPICS

Almost everyone is familiar to some extent with the Special Olympics. It is the world's largest sports program for handicapped individuals. Each year 1,000,000 mentally retarded athletes participate in Special Olympics activities. There are 19,000 local programs taking place in every Congressional district and state in the country. 70 percent of all the Special Olympians who participate in these activities come from low income families. At the national, state and local levels, Special Olympics is highly dependent on the support of its more than 400,000 individual volunteers who give generously of their time, expertise and mostly love to reach these very special children. Nor would it be possible for the Special Olympics program to carry out its good work without significant cash and in-kind contributions from the corporate sector. NIKE has been honored to assist in providing high quality athletic footwear without cost to hundreds of thousands of Special Olympians in 44 of the 50 states. These are for the most part handicapped athletes who have never owned a pair of athletic shoes. Enabling these children to participate in their events wearing footwear specifically designed to improve their performance and minimize risk of injury is important. Just as important, however, is the simple message brought by a gift of shoes to a retarded child that someone cares.

NIKE's formal relationsip with Special Olympics has evolved over a number of years. For somewhile, NIKE has worked closely with the Special Olympics primarily through its Oregon, Maine, New Hampshire, and Rhode Island state chapters. Our activities within these state chapters have included shoe donations, fundraising events, and sponsorship of annual state and local Special Olympics competition. Many NIKE employees have participated in these activities as volunteers. From this somewhat informal relationship, NIKE has acquired a deep respect and appreciation for the integrity of the Special Olympics organization and the astounding impact which its programs make in the lives of the very special athletes who participate in them.

Consequently, NIKE decided to expand its support of Special Olympics to major proportions on a national level. With the kind of encouragement and assistance of Mrs. Eunice Kennedy Shriver and General Robert M. Montague, Jr., President and Executive Director respectively of Special Olympics, this expanded program was initiated last fall with the signing of an agreement between NIKE and Special Olympics defining the terms upon which NIKE footwear would be donated for distribution by Special Olympics among all of its state chapters. While NIKE is also engaged in other projects with Special Olympics, Inc., such as the production of a track and field training film, the shoe donation program is the most important element of this relationship.

A copy of the formal agreement between NIKE and Special Olympics concerning footwear donations is attached hereto as Exhibit No. 1. It should be noted that this agreement does not provide for the donation of a specified number of shoes on an annual basis, but rather leaves this to be determined periodically by NIKE and Special Olympics, according to availability of supply and corresponding needs. The central purpose of the agreement is rather to restrict in clear terms the use to which donated footwear shall be put. Specifically, the agreement assures that donated shoes will be given to and used only by the handicapped athletes who actually compete in Special Olympics events. The shoes may not be given to staff or volunteers, and under no circumstances may they be resold, traded, leased or disposed of in any other fashion after donation. Another important aspect of this agreement concerns the distribution of the shoes. Logistically, all shoes imported for donation enter the United States at the Port of Portland, Oregon. After entry, NIKE implements the donation by shipment of the shoes to the Oregon Chapter of Special Olympics. Thereafter, allocation of the shoes among and shipment to all participating state chapters is carried out by the Oregon Chapter in accordance with guidelines and instructions issued by the Special Olympics National Headquarters. In this fashion, the needs of each state chapter can be most equitably met.

Since the execution of this agreement last fall, NIKE has donated approximately 250,000 pairs of athletic footwear to Special Olympics. Of this total, approximately 241,000 were imported for donation, with the balance made up of shoes domestically manufactured in our New England facilities. The donated footwear is composed of a wide variety of styles and models of primarily running and basketball shoes with nylon, canvas or leather uppers. The donated shoes are known in the industry as "B-Grades" or, in other words, structurally sound but in some fashion cosmetically blemished shoes.

NIKE's current intentions are to donate an additional minimum of 100,000 pairs of athletic shoes each fiscal year to Special Olympics and/or other similarly situated charitable organizations. The relief from the payment of Customs duties on footwear imported for donations provided by H.R. 5786 would enable NIKE to expand this program and thereby reach the thousands of handicapped athletes who as yet do not have access to high quality athletic footwear.

III. REVENUE IMPACT OF H.R. 5786

Based on the product mix of its current manufactures and upon an analysis of the approximately 241,000 pairs of imported shoes already donated since October, 1981, NIKE is able to estimate that under current law the average duty which would be paid on its shoes imported for donation is $1.59 per pair. If NIKE were to import 100,000 pairs of athletic shoes for donation per fiscal year, lost revenue to the Customs Service by virtue of the enactment of H.R. 5786 would be $159,000 per year. In the last year, NIKE paid total Customs duties on all of its importations of approximately $60,000,000.

Under current law, NIKE is permitted to claim a charitable contribution deduction against corporate income for most of the footwear donated to Special Olympics. If H.R. 5786 is enacted, this deduction would be decreased by virtue of the elimination of duty as a factor in determining the basis of the contributed property, NIKE estimates that 22 percent of the Customs duty lost on those shoes which qualify for charitable contribution deduction would be recaptured by the IRS by virtue of the decreased charitable contribution deduction. It should be also noted that approximately 17 percent of the imported shoes previously donated by NIKE were not eligible for the charitable contribution deduction at all by virtue of the fact that for accounting purposes their cost basis had been reduced to 0 on the corporation's books.

IV. CUSTOMS SERVICE ENFORCEMENT OF H.R. 5786

In the context of NIKE's donation program, shoes designated for donation are placed in specially-marked boxes to provide easy identification with the Special Olympics program. The shoes are transported in volumes of approximately 100,000 pairs per shipment, all of which are entered at the Port of Portland, Oregon at one time. The 241,000 pairs of shoes previously donated to Special Olympics were transported by only two ships and comprised only two separate entries for Customs purposes. In this fashion, expenditure of manpower by the Customs Service is kept to a minimum.

NIKE is also in total sympathy with the concern expressed by the Administration that a means be established to insure that any footwear donated pursuant to H.R.

5786 be in fact used for the specific purpose stated therein. We feel that our own formal agreement with Special Olympics reflects that concern. For its own part, NIKE is willing and anxious to cooperate with the Customs Service in establishing procedures by which charitable organizations receiving donated footwear pursuant to H.R. 5786 certify that the donated shoes are put to the uses contemplated by the legislation. We are certain that Special Olympics shares that commitment.

V. IMPACT ON TRADE POLICY

NIKE believes that the enactment of H.R. 5786 would not create a precedent with far reaching trade policy consequences. The provisions of H.R. 5786 are sufficiently restricted so as to make it easily distinguishable from proposals for similar treatment of apparel, accessories or any other products which might in some fashion be used by charitable organizations. This bill is being considered in the National Year of the Disabled. It specifically addresses the needs of organizations fulfilling three distinct criteria, to wit—(A) non-profit organizations, (B) established solely for the purpose of organizing or sponsoring athletic competition, (C) for the mentally or physically handicapped. Athletic footwear is uniquely suited to the needs of these organizations in real terms. It is specifically designed for the individual events in which the handicapped athletes participate, thereby improving performance and, more importantly, reducing the risk of injury. High quality athletic shoes are not within the financial means of a large segment of mentally and physically handicapped athletes. Similarly, donations of athletic footwear from purely domestic sources have not in the past and could not in the future satisfy the needs of the charitable organizations contemplated by this measure.

Therefore, any future proposal seeking duty-free entry of products for the use of charitable organizations would need to draw a parallel to all of these factors in order appropriately to cite H.R. 5786 as precedent. In NIKE's opinion, the range of products which could so qualify is extremely limited if not non-existent.

VI. OBJECTIONS OF THE DOMESTIC INDUSTRY

NIKE is shocked and disappointed at the response with which H.R. 5786 has met from the domestic rubber footwear industry. That segment of the domestic industry would apparently have us believe that organizations such as Special Olympics have had no difficulty in filling their footwear needs by donations from domestic manufacturers. (Exhibit 2) And while we have heard nebulous references to donations to Special Olympics on a local basis and to other mentally and physically handicapped people, (Exhibit 3) we have yet to see any statistics which would allow us to measure this support. The fact of the matter is that no domestic manufacturer has ever maintained a significant donation program which has come even close to meeting the needs of these organizations. Special Olympics, for example, requires any state or local chapter to report any single donation, in cash or in kind, in excess of $2,500.00 to their National Headquarters. Prior to NIKE's involvement with Special Olympics, no such report was ever made concerning athletic footwear. A donation of only 250 pair of even inexpensive shoes would have been worth more than $2,500.00. Indeed, the Executive Director of Special Olympics has advised the domestic industry that no other manufacturer of athletic footwear except NIKE has ever offered any support to Special Olympics on the national level. (Exhibit 4)

We question the motivation of the rubber footwear segment of the domestic industry for making this claim and for their opposition to H.R. 5786 generally. They would apparently have us believe that Special Olympics and other similar organizations comprise a limited and competitive marketplace for shoe donations. They argue that importers already have an advantage over domestic manufacturers in this select marketplace because of the lower costs entailed in manufacturing offshore. To afford importers the additional advantage of entering shoes for donation duty-free, they claim, would disadvantage domestic producers so much that they would lose out on this hypothetical market share.

While NIKE is pleased that H.R. 5786 has apparently raised the consciousness of domestic manufacturers concerning the virtues of corporate donation programs, we find this argument ludicrous. Initially, it should be remembered that this is a domestic industry which has for years complained that import penetration has reduced the viability of producing in the United States, has effectively shrunk the size of the domestic industry to the point of imperilment, and, in sum, has made it very difficult to operate profitably by selling shoes made domestically. Now, however, they complain that imports threaten their desire to give away their shoes.

More importantly, the fact is that the need for donations of footwear for charitable purposes far exceeds the inclination and ability of the domestic industry to meet that need. Look, for the moment, only at the Special Olympics program. Of its 1,000,000 participants, approximately 700,000 special olympians come from economically deprived backgrounds. How many shoes can the domestic industry give to Special Olympics alone? And what about the many other worthy organizations involved in sponsoring athletic competition for the mentally or physically handicapped? The Handicapped in Sports Committee of the United States Olympic Committee, for example, includes in its membership such organizations as the American Athletic Association of the Deaf, Inc., National Association of Sports for Cerebral Palsy, National Wheelchair Athletic Association, and the United States Association for Blind Athletes. Each of these fine organizations, which deal with in excess of 100,000 handicapped athletes, and many others need and deserve the support of those corporations fortunate enough to be able to lend it.

In arguing that it can fill the footwear needs of charitable organizations, the domestic industry would have us ignore another patently obvious fact. Athletic footwear has become commonplace in the everyday wardrobes of most Americans. Running, tennis and basketball shoes are used as much for streetwear as for sporting events. Has the domestic industry decided therefore that the Red Cross, the Salvation Army, CARE, Purple Heart, Boys Clubs of America, March of Dimes, United Way and hundreds of other such organizations are not worthy of its consideration? NIKE receives literally hundreds of requests for charitable donations every year. If domestic producers are truly interested in learning the full extent of the marketplace for footwear donations they need only answer their phones.

We hope that this Committee will be able to extract from the domestic producers a clear and unequivocal commitment to support all of these fine organizations. NIKE does not believe that they are prepared to do so. Indeed, we hope that this Committee will insist that the domestic producers be specific about their intentions. How many shoes do they plan to give and to whom are they going to give them? What kind of shoes are they going to give? How do their production figures justify this increased charitable activity? (NIKE currently manufactures over four million pairs per month from which its donations are drawn.) Are they willing to give substance to their stated intentions by making formal pledges to named organizations for the donation of stated numbers of shoes? Why would they consider giving shoes to some organizations and not others? NIKE believes that if the domestic industry is pressed on these issues it will become clear that donations from domestic sources alone cannot meet the total need.

The domestic industry is accurate in one sense, however. Enactment of H.R. 5786 would enable NIKE to justify importation of more shoes for donation to Special Olympics and/or other organizations. This is really all NIKE is interested in. Indeed, the real issue before Congress in the form of H.R. 5786 is whether the Federal Government should provide an incentive to the private sector as a whole to meet these particular charitable needs. We believe that this is a most appropriate fashion for Congress to exercise its authority. It is time to put aside all of the posturing and self-serving statements, past and future, of would-be corporate donors and get on with promoting the interests of those less fortunate individuals who need help. In opposing this legislation, the domestic rubber footwear industry seeks to insure that NIKE's ability to share in this task will be limited. Perhaps, then, these domestic producers would care to explain their position to the thousands of handicapped kids who will be left out next time the shoes are passed around.

VII. CONCLUSION

If enacted, H.R. 5786 would be a clear message from Congress to mentally and physically handicapped athletes and to those footwear manufacturers who, like NIKE, desire to import athletic shoes for donation. Under present law, the Federal Government imposes a tax on these donations in the form of Customs duties. In doing away with that tax under the very exceptional circumstances defined in H.R. 5786, this legislation eliminates an inequity and creates an additional incentive for the private sector to meet a need which has not historically and cannot in the future be met totally with domestic manufactures.

The introduction of H.R. 5786 in this, the National Year of the Disabled, is especially timely. President Reagan has on many occasions cited the need for the private sector to step into the breach occasioned by the cut back in federal support of programs designed to aid the disadvantaged. This legislation gives substance to the spirit of President Reagan's message and, if enacted, would be of definite assistance to NIKE in its efforts to help the handicapped athletes who participate in Special Olympics and other programs for the mentally and physically disabled. We urge this honorable Committee to recommend the enactment of this legislation as drafted.

Exhibit 1

AGREEMENT

This agreement, made this 18th day of September 1981, between Special Olympics, Inc., national headquarters having its principal location at Suite 203, 1701 K Street, N.W., Washington, D.C. 20006, hereinafter "Special Olympics", and NIKE, Inc., having its principal place of business at 3900 S.W. Murray Boulevard, Beaverton, Oreg., 97005, hereinafter "NIKE".

Whereas, Special Olympics administers programs to allow and encourage handicapped athletes to participate in sporting events; and

Whereas, NIKE is a manufacturer and distributor of NIKE athletic shoes and desires to assist Special Olympics with its programs by supplying state chapters of Special Olympics NIKE athletic footwear for use by Special Olympics' participants.

Now, Therefore, in consideration of the conditions herein contained, Special Olympics and NIKE agree as follows:

1. *Definitions.*—A. "Participants in Special Olympics" shall mean any handicapped athletes who shall participate in any Special Olympics program as competitors, and this term shall specifically exclude those paid staff and volunteers who assist as meet officials or directors.

B. "Resell" shall mean, wherever used in this Agreement, the sale, barter, trading for consideration, leasing, renting or otherwise disposing of donated NIKE athletic shoes in commerce.

2. *Description of Donation.*—Subject to the requirements of Special Olympics, NIKE will donate to Special Olympics structurally sound, cosmetically blemished, non-spiked NIKE athletic shoes for use by Participants in Special Olympics. Special Olympics and NIKE will jointly determine, subject to the availability of NIKE shoes, the quantity of NIKE athletic shoes to be periodically donated by NIKE to Special Olympics pursuant to this Agreement.

3. *Shipment and Shipment Costs.*—The NIKE athletic shoes to be donated to Special Olympics pursuant to this Agreement will be shipped to the Oregon Chapter of Special Olympics, and the Oregon Chapter shall be responsible for delivering the NIKE athletic shoes to other Special Olympics' state chapters pursuant to guidelines and instructions received by Special Olympics. Special Olympics agrees that Special Olympics will pay all freight and other shipment costs incurred to ship the donated NIKE athletic shoes to Special Olympics.

4. *Use of Shoes.*—A. Special Olympics agrees that the NIKE athletic shoes donated pursuant to this Agreement shall be only given to and used by handicapped persons who are Participants in Special Olympics, as that term is defined above. Nothing contained herein shall prohibit Special Olympics from giving NIKE athletic shoes to Participants in Special Olympics at the conclusion of any Special Olympics program.

B. Special Olympics agrees that it is receiving NIKE athletic shoes as a donation from NIKE for use in its Special Olympics programs by Participants in Special Olympics. Special Olympics agrees that it will not Resell, as that term is defined above, the donated NIKE athletic shoes. In the event that Special Olympics does Resell donated NIKE athletic shoes, NIKE's obligation to donate any further athletic shoes to Special Olympics ceases in full.

5. *Indemnification.*—Special Olympics understands and agrees that it accepts donated NIKE athletic shoes on an "as is" basis. Special Olympics agrees that it will assume any and all liability connected with use of donated NIKE athletic shoes in Special Olympics programs and shall indemnify and hold harmless NIKE and any or all its subsidiaries for any such liability. Special Olympics further agrees and understands that in the case of any lawsuit brought in connection with the use of the donated NIKE athletic shoes in Special Olympics programs in which NIKE or any or all of its subsidiaries is a named party, Special Olympics will indemnify and hold harmless NIKE from all judgments and all costs incurred by NIKE and any and all of its subsidiaries in connection with defending such lawsuit and any appeal if appropriate.

6. *Assignment or Transfer.*—No interest or right of Special Olympics to use the NIKE athletic shoes donated under this Agreement shall be assigned, subcontracted, transferred, either voluntarily or involuntarily, without the prior written consent of NIKE.

7. *Publicizing the Donation of NIKE Athletic Shoes to Special Olympics.*—Either Special Olympics or NIKE may publicize, by press release or otherwise, that NIKE has donated NIKE athletic footwear to Special Olympics for use by Participants in Special Olympics. However, neither party will do so without first consulting with and obtaining the permission of the other party to this Agreement. All use of the NIKE name, logo or Swoosh stripe in such publicity shall be accompained by an indication of the fact that these items are registered trademarks of NIKE.

8. *Entire Agreement.*—This Agreement contains the entire agreement between Special Olympics and NIKE and any and all oral representations are not binding. This Agreement may not be amended, altered or changed in any way except by an agreement in writing signed by both NIKE and Special Olympics.

In Witness Whereof, the parties have executed this Agreement on the date first written above.

——— ———,
President, Special Olympics, Inc.

——— ———,
President, Nike, Inc.

EXHIBIT 2

MITCHELL J. COOPER,
LAW OFFICES,
Washington, D.C., April 7, 1982.

Mr. DAVID ROHR,
Staff Director, Trade Subcommittee of Committee on Ways and Means,
U.S. House of Representatives, Washington, D.C.

DEAR DAVID: I am writing with reference to H.R. 5786, a bill introduced by Congressman AuCoin and referred to the Ways and Means Committee on March 10.

This bill would permit duty-free treatment for "athletic footwear imported for the use of any non-profit institution . . . established solely for purposes of organizing . . . athletic competition for physically or mentally handicapped individuals".

The Footwear Division of the Rubber Manufacturers Association, with one dissenting vote, opposes this bill. It would create a loophole in the TSUS since it would be extraordinarily difficult to segregate such footwear under the tariff schedules. Moreover, the bill is unnecessary since organizations such as the Special Olympics have had no difficulty in filling their footwear needs by donations from domestic manufacturers.

Since this bill is unnecessary and since it would needlessly deprive the Government of customs duties, I would hope that the Trade Subcommittee will not report it out.

Sincerely,

MITCHELL J. COOPER.

EXHIBIT 3

CONVERSE INC.,
Wilmington, Mass., April 8, 1982.

Hon. LES AUCOIN,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN AUCOIN: I am writing you on the introduction of H.R. 5786 by you and Congressman Wyden on "Duty Free Entry of Certain Footwear".

While I recognize and acknowledge the need for donations of athletic footwear to the Special Olympics and applaud Nike's donation to this organization, I feel I must point out that Converse and other domestic producers of athletic footwear have made donations of our products on at least a local basis to the Special Olympics as well as to other mentally and physically handicapped people.

Through the local Converse distributor, we are working on appropriate donations for the 1983 Special Olympic Games to be held in Baton Rouge, Louisiana and feel that we can meet the needs of this organization with domestically produced products.

I'm sure you will recognize that there are many other worthy charitable organizations that should be entitled to the same consideration as Special Olympics. If they also ask for duty free entry of footwear or other products, the administration required to segregate the entries would place an intolerable burden on the Customs Bureau.

You should also be aware that, according to the IRS regulations, the donator of these products is entitled to a tax deduction equal to the full retail value of the products donated.

For these reasons, I do not feel that duty-free entry of athletic footwear for donation to Special Olympics or other charitable organizations is either necessary or desirable.

Sincerely,

JOHN P. O'NEIL,
President.

EXHIBIT 4

SPECIAL OLYMPICS, INC.,
INTERNATIONAL HEADQUARTERS,
Washington, D.C., April 27, 1982.

Mr. WILLIAM C. CAMPBELL,
President, Footwear Division, Rubber Manufacturers Association, Washington, D.C.

DEAR MR. CAMPBELL: As you may have heard, NIKE provides the international Special Olympics program unprecedented continuing support in an area of great need. For the past 2 years, NIKE has donated more than 100,000 pairs of athletic shoes each year to help outfit the 1,000,000 mentally retarded athletes who participate in this world's largest sports program for handicapped individuals. NIKE also makes generous financial donations to Special Olympics. No other manufacturer of athletic shoes has every offered any support on the national or international level.

I am dismayed that the Rubber Manufacturers Association has acted to oppose legislation before Congress which would exempt athletic shoes donated to Special Olympics or any other charitable organization from import tariffs imposed by the U.S. Government. The Association has taken this action contrary to the President's urging for the private sector to take on more responsibility in supporting programs such as Special Olympics.

I wonder if the Association's members are aware of the consequences of the Association's actions. Do they know that 70 percent of the athletes in Special Olympics come from low income families? Have they seen that a large number of Special Olympians do not own a pair of athletic shoes? Do they even know what NIKE is doing and what Nike's support means to 19,000 local Special Olympics programs? I know they do not.

Therefore, I ask you, "How can the Association take such a position in opposition to this proposed legislation?" Does the Association know what it is doing?

I implore you to learn the facts and reconsider your position.

Sincerely,

ROBERT M. MONTAGUE, Jr.,
Executive Director.

Chairman GIBBONS. Are there questions from the committee?

Mr. SCHULZE. Mr. Chairman, I just have one question. The agreement you have with Special Olympics, apparently the Special Olympics pays the delivery costs. Normally, you operate through distributors in getting your products to retailers. Do they pay the shipping costs or do you pay the shipping costs on that?

Mr. DAVID SMITH. Ordinarily, the retailers would pay the shipping costs.

Mr. SCHULZE. From the distributor?

Mr. DAVID SMITH. We are the distributor; yes. NIKE is in fact the distributor.

Mr. SCHULZE. How many distribution points do you maintain around the country?

Mr. DAVID SMITH. Currently—in fact, one major distribution center is now in operation in Memphis, Tenn. That is our third major distribution facility. The other two are in Greenland, N.H., and Portland, Oreg.

Mr. **Schulze**. The reason I ask this is I presume you take the charitable deduction from the retail value and factored into that retail value are also transportation costs. But in this instance, you are not paying transportation costs.

It seems to me you are getting kind of a bonus on your deduction. Is that correct reasoning?

Mr. **David Smith**. Mr. Schulze, we do not use retail value to calculate our charitable contribution deduction. We use wholesale value. In neither event would we include transportation in that calculation. The shoes are actually donated after they clear customs at the Port of Portland, Oreg., where we warehouse them, and from which center the State chapter of the Special Olympics in Oregon actually picks them up.

From that point on, the State chapter of Oregon is charged with the responsibility under our agreement.

Mr. **Schulze**. If I were selling your shoes in Florida, they would then come from Tennessee; is that correct? The shipping charges would be much less than they would be from Oregon?

Mr. **David Smith**. If you were selling the shoes in Florida, you would probably until some time next month have been receiving them from Greenland, N.H.

Mr. **Schulze**. Let's say I was in New York then.

Mr. **David Smith**. You would receive them from one of the three centers.

Mr. **Schulze**. The shipping charges would be much less than they would be from Oregon?

Mr. **David Smith**. Yes; that is correct.

We understand the Special Olympics internally, working out their guidelines for the transportation of these shoes, have arrived at the following formula. Each State chapter which orders shoes—and they place their orders with the Oregon State chapter, who, after accumulating all orders, then makes the decision as to how specifically to distribute those shoes among the other State chapters requesting them.

The State chapter receiving the shoes pays to the Oregon State chapter the equivalent of $1 per pair for the transportation. It is our specific agreement with the Special Olympics that that $1 per pair for transportation not be paid by any Special Olympian; the shoes be given to those athletes free of charge of any nature.

In that sense, therefore, the Special Olympics indeed is responsible for fundraising sufficient to pay the cost of transportation and in fact reimburse the Oregon State chapter for it.

Mr. **Schulze**. Thank you, Mr. Chairman.

Chairman **Gibbons**. Mr. Jenkins.

Mr. **Jenkins**. Thank you, Mr. Chairman.

I am sorry I missed your earlier statement. I have not read it. Does NIKE have some special arrangement with Special Olympics as far as the right to advertise the fact that they are being supplied to the Special Olympics?

Mr. **David Smith**. Yes, Mr. Jenkins.

I believe it is the second-to-last paragraph in the formal agreement between NIKE and the Special Olympics. It provides that either entity, after consulting with the other, may undertake to advertise the relationship.

Mr. JENKINS. In addition to any charitable contribution, you obviously have a very valuable advertising right that you have received because of the donation to the Special Olympics.

Mr. DAVID SMITH. Mr. Jenkins, that is very definitely the case. I feel compelled to point out that since October of last year, when we initiated our giving program, and now 241,000—actually closer to 250,000 pairs later, we have not undertaken to exercise that right. I suspect we will at some time.

Mr. JENKINS. Are you saying that you do not intend to advertise that fact?

Mr. DAVID SMITH. Oh, the answer to that question is definitely no. We do intend to advertise the fact.

Mr. JENKINS. Which is very valuable to NIKE?

Mr. DAVID SMITH. I agree. I think everyone is familiar with the Special Olympics program and that it is probably held in universal respect. We are proud of our involvement with it.

Mr. JENKINS. If we don't pass this bill, does NIKE intend to continue to provide those shoes to Special Olympics?

Mr. DAVID SMITH. Yes, we do, Mr. Jenkins, at approximately the 100,000-pair-per-year level.

Mr. JENKINS. This is your agreement with them, isn't it?

Mr. DAVID SMITH. The agreement actually specifies no firm number of donations, either for fiscal year or any other time frame. The agreement, in fact, serves one key purpose. It was the only reason we sought an agreement with the Special Olympics. The level of donations are to be determined periodically by Special Olympics and NIKE, based on their need and our available supply.

That is the extent to which levels are referred to in the agreement. The reason we desired an agreement was so we could put language in that contract that would assure that the only purpose to which donated shoes are put is to get them on the feet of Special Olympians.

They are prohibited in our agreement, for example, from selling the shoes, using them for fundraising activities, giving them to the volunteers or in any other fashion disposing of them besides giving them free of cost to the Special Olympians.

Mr. JENKINS. What percentage of your production is domestic?

Mr. DAVID SMITH. Approximately 10 percent. By volume.

Mr. JENKINS. So you import practically all of the shoes you sell in this country?

Mr. DAVID SMITH. We import 90 percent of the shoes we sell in the United States.

Mr. JENKINS. Is that 90 percent of this particular type or a total? Total shoes?

Mr. DAVID SMITH. It would be fair to say that of the particular varieties of shoes that can be used, speaking only from experience in the Special Olympics program, are as a percentage of total manufacture, probably higher offshore than they are domestically. A great number of shoes we make domestically are of the cleated variety and inappropriate for use in the Special Olympians program. The balance is probably 90-10. I am not sure of the exact number.

Mr. JENKINS. When you get your order from Special Olympics, is that order sent directly to your overseas supplier or do you simply take from the domestic warehouses what they want?

Mr. DAVID SMITH. I should perhaps make clear the types of footwear we donate are what are known in the industry as B grades. These are cosmetically blemished, but otherwise structurally sound shoes.

Fortunately, our production experience has been quite good. Our percentage of total production that turn out to be B grades which are not manufactured on purpose is quite low. The total volume from our domestic producers, our own company-owned factories in New England, would be insufficient if we are talking only of B grades at any point in time to meet the needs or our commitment at levels acceptable to the Special Olympics.

Consequently, we would need, of necessity, to draw upon the B grades that exist offshore simply as a function of higher level of production but usually at the same percentage of production in order to meet these needs. It is not, in other words, if I understand your question correctly, the case that our program would involve getting orders from the Special Olympics and then first trying to satisfy them with domestically manufactured models.

For the reasons stated, we wouldn't be able to do that. We would have to satisfy the needs from models made offshore.

Mr. JENKINS. The point I was trying to ascertain, if you have a demand for 50,000 pairs, do you send an order to your overseas plant for 50,000 pairs? Or, do you take these from your warehouse, if you can supply it, the 50,000 pairs of seconds or blemished—whatever you may designate them—and deliver those to the Special Olympics?

Mr. DAVID SMITH: Meaning we would have in the warehouse in addition to domestically made models, models previously imported?

Mr. JENKINS. Yes.

Mr. DAVID SMITH. The orders are actually filled offshore. Rather than taking them out of warehouses after they have already been imported and duty paid. We accumulate a sufficient volume of B grades offshore such that we can justify dedicating one full ship to the transportation of those shoes.

As mentioned in my written statement, the 241,000 pairs imported for donation to date, have been carried by only two ships, averaging over 100,000 pairs per ship. That saves us, obviously, money, and it is logistically simpler that way.

Mr. JENKINS. I am pleased to know that regardless of the outcome of this bill, from your testimony and from the testimony of the domestic manufacturer—Converse, I believe it was—that the needs of Special Olympics will not be affected one way or the other by the passage or the defeat of this bill; is that correct?

Mr. DAVID SMITH. Mr. Jenkins, I hope that is true as well.

Mr. JENKINS. I understood you to say Nike will continue to supply them regardless.

Mr. DAVID SMITH. We will continue to supply at the 100,000-pair-per-year level.

Mr. JENKINS. So, the Special Olympics needs will be met regardless of the outcome of this particular bill?

Mr. **David Smith**. I think perhaps Nike's impression of the needs of the Special Olympics differ somewhat from the impression expressed by Mr. Cooper on behalf of the domestic industry. I should also like to point out Nike is not interested in this bill specifically because it happens to be involved with the Special Olympics program.

Mr. **Jenkins**. I don't understand why you are not interested if it is not for Nike. Nike is going to get the benefit, are they not?

Mr. **David Smith**. Yes, Mr. Jenkins. Nike would get the benefit. What we would do with that benefit would be to expand our program so we can give more shoes away. What I meant to state is we do not feel Special Olympics is the only eligible beneficiary for this program.

There are many other organizations specifically organized for the purpose of sponsoring athletic endeavors for the physically and mentally handicapped that we believe equally merit the attention of not just Nike, but the domestic industry as well.

What I would point out from my recollection of Mr. Cooper's testimony is that the commitment of the domestic industry is directed only at the Special Olympics and not these other organizations.

Mr. **Jenkins**. I commend your company for its involvement in this. I just have some hesitation about the Congress getting involved in paying the promotional expenses of any company that is supplying a charitable need.

Since all the benefits accrue to Nike, and since Nike is going to advertise the fact that they are supplying the footwear to the Special Olympics, it may very well be a close question as to whether or not, in fact, this bill would be looked upon as a bill to provide funds for the promotion of Nike shoes.

I am grateful to know that regardless of the outcome of the bill, the Special Olympics needs are going to be taken care of. I think we all want that.

Thank you very much for your testimony.

Mr. **David Smith**. Thank you, Mr. Jenkins.

Chairman **Gibbons**. Are there further questions?

Thank you very much.

Our next witness is Mr. de la Garza to talk about his bill, H.R. 5790. I apologize for keeping you waiting so long here. We would be glad to hear you.

Mr. de la Garza, let me say to the other witnesses in the room, I hoped to go right straight through on this meeting. My stomach is already growling. We are going to have a vote pretty soon, I hope, on the floor. Maybe I can feed the stomach and take care of the vote all at the same time and come back around 1:30.

That will be for all those after Mr. de la Garza on the witness list.

If you want to rush out and get something to eat, we will be back at 1:30.

STATEMENT OF HON. E de la GARZA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. **de la Garza**. Thank you, Mr. Chairman.

In order to accommodate you and your stomach, I would like to submit my statement for the record, if there is no objection.

Chairman GIBBONS. No, sir. We will take your statement. We just want to hear from you, too.

Mr. DE LA GARZA. I will be very brief. Mr. Chairman, members, I introduced this bill after very careful consideration, having checked with all sources that deal with either growing, shipping, or packing cantaloupes.

I found that—at least I have not been able to find anyone that is in opposition to the legislation. What it does, there is a 35-percent ad valorem duty on cantaloupes. On the United States-Mexican border where I live, the location of the bulk of the cantaloupe trade, most of the growers are also the shippers.

They would like to end our prohibition on bringing in from Mexico during the period January through May. The high tariff duty is prohibitive. I would also like to say I have not had any contact with any Mexican, not the Government, not the Embassy, no growers.

This bill is not introduced at the request or for the benefit of Mexico, although benefit will accrue to them. The reason it was introduced is obvious if you go to a grocery store here and see some of the cantaloupes.

The price is exceedingly high; but we, in my area, have a very high unemployment. We have a tremendous need for jobs. This would enhance that position somewhat by bringing in the cantaloupes. I am very disturbed at the very absurd oppostion to this legislation by the administration, specifically the Office of the Trade Representative.

Friday, we will be meeting with delegates from the Mexican Congress for the annual Mexico-United States Interparliamentary meeting we have. The President will open the meeting. I am sure that he will have laudatory statements to make about Mexico and our relationship and all our goodwill to them.

Mexico, in the Americas, is our largest buyer. We have an overwhelming balance of trade in our favor with Mexico; but the Trade Representative's Office insists in treating Mexico equally with us in that if we give them a break, we ought to get something from them.

It is utterly absurd with Mexico surpassing all of the American countries in foreign debt. They are up to about $85 billion in foreign debt.

In my area, all through the border country, the retail stores get from Mexican trade anywhere from 25 to 75 percent of their business. So the opposition from the Office of the Trade Representative is quite shocking, to say the least, to me. It is totally absurd. Their mentality is such that they would treat us equal, Mexico to us, vis-a-vis our trade relationship.

That is what I wanted to express.

I don't have the exact figures of how much loss it would be to the Treasury, but we can supply that for the record.

[The following was subequently received:]

U.S. IMPORTS FOR CONSUMPTION OF CANTALOUPES FROM MEXICO

[Dollar amounts in thousands]

Year	Quantity (1,000 pounds)	Value	Duty paid
1979	189,870	$21,670	$7,585
1980	166,128	19,987	6,996
1981	135,705	19,189	6,716

Source: Official Statistics of the Department of Commerce (IM-146).

Mr. DE LA GARZA. It would be minimal, maybe $2 million; perhaps 3. It would help American shippers; it would make for more American jobs; it would place cantaloupes at a decent price for homemakers or housewives throughout the United States.

It does not disrupt in any way the Caribbean Initiative proposal of the President. They already have duty-free status now. They are not shipping but very few cantaloupes. It is not going to shift around. They tried it in Panama, in Costa Rica.

It is not going to shift around. My plea to you is that—this is an American bill for American jobs. Yes, it will be a little bit of a loss to the Treasury on the tariff; but it is exceedingly high anyway. The taxes that would accrue to the Government by the few jobs that it would create would far surpass whatever we lose on the duty.

If I may repeat once again, I am very disturbed at the administration for this attitude which they have taken that unless we get something in return, we are not going to favor any legislation of this type.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF HON. E DE LA GARZA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. Chairman, Thank you for this opportunity to testify in support of H.R. 5790, which I introduced to provide for the temporary duty-free treatment of imported fresh cantaloupes during periods of each year when no American grown cantaloupes are available for sale.

The reason I introduced this bill is that my congressional district is very hard hit by the present 35 percent rate of duty which applies to cantaloupes imported from Mexico during the period January 1 through May 15. At that time there are no American cantaloupes available for market. Not only does this unnecessary tariff hurt my district, but it also hurts the American housewife who is now struggling with inflationary prices on everything she buys.

No one in Congress has a better record than I in looking out for the interests of American farmers. Those interests, however, are not served by keeping a high duty on melons which do not compete with American products.

This is the strongly-held view of the cantaloupe growers who account for the majority of the cantaloupes grown in my district. They have urged enactment of H.R. 5790. They need this legislation so they can better serve their customers throughout the United States—these customers who are presently priced out of the winter market for cantaloupes, largely because of the unnecessary, high duty.

Although the purpose of H.R. 5790 is to serve the interests of American importers and consumers, while safeguarding the interests of American agriculture, the Department of Agriculture has advised you that the Administration does not favor the bill.

The reason stated for the Administration's position is that Mexico is the principal source of cantaloupes which are imported into the United States when no homegrown cantaloupes are available; and those melons are imported in substantial quantities. The Administration said that it would prefer to use an offer of temporary free importation as a bargaining chip to induce the Mexican Government to provide the United States with something of value in return.

This superficially appealing argument seems to evaporate on examination, since over the years neither our State Department, or the Office of the Special Trade Representative, nor anyone else in this or previous Administrations has proposed any such bargain to the Mexicans.

Those who listened to testimony of Administration witnesses on May 17 with respect to the numerous duty suspension bills pending before your subcommittee may have been struck by the fact that in many instances, the Administration stated that it had no opposition to other bills to suspend duty on a number of other commodities where there is no competitive impact on domestic producers of the same commodity. Yet many of those commodities are imported from countries with whom we have frequent trade negotiations. With respect to those bills there was no talk of marshalling chips for negotiating purposes. One wonders at the difference.

The tunnel vision shown in the position taken in opposition to H.R. 5790 would sacrifice the interests of American consumers, as well as importers and other Americans who are involved in the process of importation, transportation and sale of cantaloupes, to a theoretical bargaining chip which no one has shown any interest in using.

Mr. Chairman, I stress and emphasize that this bill has not been introduced to benefit Mexico or Mexicans. Its purpose is to help Americans both in my own constituents and consumers who are forced to pay outlandish prices in markets that are inflated by a 35 percent rate of duty. This continuation of the existing situation serves no American interests.

Mr. Chairman, I urge that this subcommittee disregard the opposition to H.R. 5790. I feel sure that an examination of the reasons adduced for and against the enactment of this bill will lead this subcommittee to report this bill favorably.

Thank you very much, Mr. Chairman, for this opportunity to state my views with regard to this bill.

Chairman **Gibbons**. Mr. de la Garza, we have a great deal of respect for you, not only as an ordinary member of this Congress, but because you are the Chairman of the Agriculture Committee. I assume before you introduced a bill like this, you would have checked out through your staff and your own contacts whether there was any other domestic American producer that would have been adversely affected?

I don't think there is any. Did you find any?

Mr. **de la Garza**. That we did, Mr. Chairman. We found no one. It is the same people, the same growers who would like, when we have no domestic cantaloupes, to bring them from Mexico.

Chairman **Gibbons**. They like to keep their product on the grocery shelves?

Mr. **de la Garza**. Exactly right. I know personally from my own knowledge that there are no cantaloupes grown, period, in this period. We may have to narrow it a little bit. There is none grown. There would be none in the market.

Beyond that, I have found no one in any part of the trade who feels opposition to the legislation. Mr. Chairman, the Agriculture Committee, with all the problems we have now, I would be the last one to infringe on the domestic industry.

Chairman **Gibbons**. That has been my impression. I know you have been very vigorous in watching out after agriculture.

Mr. **de la Garza**. There is no objection from the administration from that point. I think they care little about the American producers. They are trying to—we have to get something or else we won't give; but then I have to go to other countries trying to sell Texas grapefruit, oranges, meat, and so on, in Europe and so on.

We are asking—I go around all the time asking, "Hey, don't put restrictions on us." Some time we have to show a little good faith that we will do the same to a neighbor indeed, although again I repeat there was no contact at all from Mexico on this.

Chairman GIBBONS. Well, I respect your position and your testimony, sir.

Mr. Frenzel.

Mr. FRENZEL. I want to thank the chairman for his testimony as well. We always appreciate what he brings before this subcommittee.

I have to say, though, Mr. Chairman, both Mr. Chairmen, that this country has had an enormous amount of difficulty negotiating with the people with whom we want to be good neighbors and who we want to be good neighbors to us. That is Mexico. We have had difficulty in trade arrangements where Mexico has refused to join the international organizations, abide by rules that everybody else in the world or at least the free countries in the world seem to think are pretty good rules.

So, I don't blame the administration for its reluctance on this one. I must tell you, personally, Mr. Chairman, that because your committee was so sensitive to a problem that this subcommittee had with beef in your agricultural bill last year in conference, and because you resolved that so carefully and so well, that despite my reluctance, I want to bet on a winner.

I am going to support your bill.

Mr. DE LA GARZA. Thank you very much. Let me say, again, that Mexico is not joining GATT—I don't know why. I have discussed it with them, including the Mexican Presidents, two of them now.

They have their reasons. Unemployment in Mexico is real unemployment, over 40 percent. They have a terrible problem economically. They have had to devalue their peso.

Joining the GATT would probably be beneficial to them. That is for them to decide. This is such a small part in the whole process.

Mr. FRENZEL. I agree. I think you have been a better Ambassador than we have been. We have the feeling that if we forbid them to join GATT, they would probably join in 5 minutes.

Mr. DE LA GARZA. I think there is something to be said about that.

Mr. FRENZEL. You are right. It is their decision. This committee is glad that you have such fine relations.

Chairman GIBBONS. Mr. Jenkins.

Mr. JENKINS. Thank you, Mr. Chairman.

I also want to tell the chairman I intend to support him. I wasn't certain until last week when I went home and bought a couple of cantaloupes for $1.10 a piece on my way home.

I think your bill does meet a need where the need is not provided domestically, and at the same time we might, as you indicate, show some good faith with our neighbor and some small measures like this might mean much more to this Nation in the long run than a lot of other things that we talk about.

I appreciate your interest. I know you are looking after the domestic agricultural interests.

Mr. DE LA GARZA. Thank you very much. I am even wearing socks from your district.

Chairman GIBBONS. Mr. de la Garza, as always, you are convincing. We appreciate your coming here.

Mr. DE LA GARZA. Thank you very much, Mr. Chairman. I appreciate it.

Chairman GIBBONS. The committee is going to recess now until 1:30, at which time we will try to complete the witness list.

[Whereupon, at 12:35 p.m., the subcommittee recessed, to reconvene at 1:30 p.m., the same day.]

AFTERNOON SESSION

Chairman GIBBONS. Good afternoon, ladies and gentlemen. The hearing will resume.

Our first bill this afternoon is H.R. 5884 by Mr. Broyhill. We have the Association of Synthetic Yarn Manufacturers here, Mr. Jim H. Conner, Jane Leonard, and Ray Maynard.

STATEMENT OF JIM H. CONNER, EXECUTIVE DIRECTOR, ASSOCIATION OF SYNTHETIC YARN MANUFACTURERS, INC., ACCOMPANIED BY JANE LEONARD AND RAY MAYNARD, UNIFI, INC., GREENSBORO, N.C.

Mr. CONNER. Mr. Chairman, in keeping with your wishes to keep the presentations as brief as possible, we will not repeat our statement. You have indicated it is in the record. I would like to point out, however, though, that we represent the manufacturers of yarn who use the machines.

To just highlight the statement——

Chairman GIBBONS. You are supporting Mr. Broyhill's bill?

Mr. CONNER. That is correct.

The technology has moved more rapidly in this area than perhaps any other part of the textile manufacturing industry. As indicated in our statement, from 1955 to 1965, the output of productivity of this equipment increased some threefold. From 1965 to 1975, the output doubled, and doubled again by 1975 and again by 1980.

The key point being the necessity of meeting the technology that is only available from overseas, particularly Europe.

Over the last 5 years, the U.S. texturizers imported approximately $100 million worth of equipment from Europe and in 1981 alone, we exported over $400 million worth of yarn made from that equipment.

In order to maintain our competitive position in the international and domestic markets, we must continue to replace this equipment as it comes available in more productive forms and the technology improves. Currently, the equipment carries duty rates of 5.3 percent ad valorem.

While it may seem insignificant when we look at the 5.3 percent duty, when coupled with the 16 percent prime rate for financing on a machine that can sell for as high as $600,000 to $700,000 depending on what the exchange rates might be, the duty is significant.

We listened this morning as the administration presented their position. We would support the position as they indicated it, with the slight modification they indicated to cover machines that have heat set, stretch texturing of continuous manmade fibers.

We would prefer a permanent duty exemption, but the 3-year temporary suspension is no real problem for us at this time.

I think the real key to what we are trying to accomplish here is shown in exhibit 3 of the statement. In 1970, when the Europeans and the Japanese had the technological advantage over the U.S. producers in that they had the machines in place and operating, we imported 77 million pounds of yarn.

Yarn imports reached 145 million pounds in 1971, 126 million in 1972, and 100 million in 1973. Exports of our product in 1973 was 39 million pounds.

What happened over the next several years is self evident from the statement. In 1981, we had reduced the imports to 12 million pounds and exported 317 million pounds valued at $408 million.

Chairman GIBBONS. That is an amazing record there. You attribute that to the fact you got better machines by being able to import them; is that right?

Mr. CONNER. It is purely attributable to the fact we were able to install the technology that was available from overseas in the United States and gained an advantage over the European throwsters by use of this more advanced technology; even though it was available to them. We bought it and installed it here.

Chairman GIBBONS. You went from imports that ran as high as 145 million pounds——

Mr. CONNER. 145 million pounds.

Chairman GIBBONS. 145 million pounds, and no exports.

Mr. CONNER. Very small.

Chairman GIBBONS. Down to 12 million pounds of imports and 317 million pounds of exports?

Mr. CONNER. That is correct, sir.

Chairman GIBBONS. That is a good turn around.

Mr. CONNER. I might add the technology that has become available in the last couple of years is so advanced that the industry in order to maintain this export business as well as our competitive position domestically and keep the imports from coming back in again, we really have no alternative but to go to this newer equipment.

Chairman GIBBONS. Where is this equipment made?

Mr. CONNER. Primarily Europe. England, France; most of what is being bought today is coming from Germany.

I have nothing else to add other than what is in the statement itself. We think the duty—elimination of this duty is appropriate because there is no domestic manufacturer of heat set stretch texturing machines.

The duty serves no purpose. Certainly even though there would be a slight loss of customs duty to the Treasury, the value of the output of the yarn from these machines far exceeds any loss that might occur there as shown by the export value and the additional corporate taxes, employment, and other benefits to the economy as a whole.

[The prepared statement follows:]

STATEMENT OF ASSOCIATION OF SYNTHETIC YARN MANUFACTURERS, INC., BY JIM H. CONNER, EXECUTIVE DIRECTOR

This statement is presented on behalf of the Association of Synthetic Yarn Manufacturers, Inc. in support of H.R. 5884, which provides for duty-free treatment of machines specifically designed for stretch or heat-set texturing of continuous filament man-made fibers. The Association's membership is composed of firms who texture filament yarns for the production of knit and woven fabrics consumed in apparel and home furnishings. Our membership is spread geographically along the eastern seaboard in ten states from Rhode Island to South Carolina.

Since the introduction of textured man-made filament yarns in the early 1950's, textured yarn production has grown to over one billion pounds annually. This was made possible by technological developments which increased yarn output per spindle from 60 meters per minute in 1955 to a 1,200 meters per minute potential today. The resulting productivity increases and manufacturing cost reductions have been phenomenal by any standard.

To illustrate how rapidly texturing technology has developed over the past 25 years, we have prepared a table identified as Exhibit I which traces the machine development of four manufacturers since 1955 in terms of yarn output per delivery in meters per minute. From 1955 to 1965, output increased some three fold. From 1965 to 1970, the output doubled, and doubled again by 1975 and again by 1980. This has been further illustrated in Exhibit II to show the relationship between delivery speed and output in pounds per hour. The result is a twenty fold increase in output per machine week since 1955.

Throughout the 25-year history of texturing, European and Japanese machinery manufacturers dominated in terms of technology and enabled their domestic yarn producers to capture a large share of the U.S. textured yarn market in the early 1970's. Being unable to obtain comparable technology at home, U.S. texturizers turned to Europe. The results can best be illustrated by the data in Exhibit III, which shows U.S. imports and exports of textured yarn in pounds since 1970. Beginning in 1974, U.S. texturizers turned a huge trade deficit into an enviable surplus in textured yarn.

Over the last 5 years, U.S. texturizers imported European texturing machines valued at roughly $100 million. In 1981 alone, U.S. textured yarn exports exceeded $400 million.

The technological lead in filament yarn texturing enjoyed by the U.S. today, coupled with a successful yarn export effort over the last 5 years, is what brings us before you today. In order to maintain our competitive position in the international and domestic markets, we must continue to replace older machines with the more advanced technology available only from foreign machine manufacturers, since failure to do so would be an open invitation to our competitors in Japan and Europe to retake the competitive advantage.

Currently texturing machines are imported under subpart E of part 4 of schedule 6 of the Tariff Schedules of the United States and have a column 1 duty rate of 5.3 percent ad valorem. While this small rate of duty may seem insignificant, it must be remembered that we are talking about machines that cost up to $600,000 each. When one considers the 5.3 percent duty, coupled with a 16 percent prime rate, the ability to purchase equipment of this type is becoming increasingly difficult.

While it may be argued that the elimination of the customs duty would be a loss to the U.S. Treasury, it should also be pointed out that the overall advantages far outweigh this consideration. In pure economic terms, one must also consider the extra income generated by corporate income taxes paid by the yarn producer, the effect on domestic employment, and finally the favorable trade balance in textured yarns.

In conclusion, our organization fully supports duty-free treatment for heat-set stretch texturing machines as provided for in H.R. 5884. We hope you will agree that our position is sound and appreciate the opportunity to express our views to the committee.

EXHIBIT I.—TEXTURING TECHNOLOGY ADVANCES EXPRESSED IN METERS PER MINUTE BY MANUFACTURER 1955–80

Year	Arct		Barmag		Scragg		Leesona	
	Model	Meters/ Minute	Model	Meter/ Minute	Model	Meters/ minute	Model	Meters/ Minute
1955	FT-1	60					550	50
1957					CS3	N/A		
1958			DFKO	90			552	90
1960							553	100
1961	FT-3	80			CS9	N/A		
1963			FK3	100				

EXHIBIT I.—TEXTURING TECHNOLOGY ADVANCES EXPRESSED IN METERS PER MINUTE BY MANUFACTURER 1955–80—Continued

Year	Arct		Barmag		Scragg		Leesona	
	Model	Meters/Minute	Model	Meter/Minute	Model	Meters/minute	Model	Meters/Minute
1965	FT-400	120	FK4	185	CS12	N/A		
1968	FT-415	180						
1969			Fk4C	400	SS1	160		
1971			Fk5	400	SS2	400	571	140
1973	FTF-483	400					(1)	(1)
1974			Fk6	600				
1976	FTF-90	900	Fk6-900	900				
1978					DDS8	900		
1980			M-80	1200	DCS-1000	100		

[1] Ceased production.

Note.—For purposes of this table, the four manufacturers shown are the major ones whose machines have been sold in the United States since 1955. Leesona Corporation ceased manufacturing of texturing machines in the early 1970's with the introduction of European friction twist machines of the type produced by ARCT (France), Barmag (Germany), and Scragg (England).

EXHIBIT II.—TEXTURING PRODUCTIVITY PER SPINDLE HOUR AT VARIOUS DELIVERY SPEEDS ASSUMING 100 AND 150 DENIER YARN

Delivery speed (meters/minute)	Pounds output per hour per position	
	100 Denier	150 Denier
60	.088	.132
120	.176	.264
180	.264	.397
400	.588	.881
600	.881	1.322
900	1.322	1.983
1,200	1.763	2.644

Conversion formula: Output per delivery in pounds per hour equals meters per minute times denier times .533 total/36,288.

Note: Output per machine week can be calculated by multiplying the pounds output per delivery position per hour by the number of spindles on the machine times 168 hours per week. At 1,200 meters per minute, the output per week for a 216 spindle machine would be computed as follows: 1.763 times 216 times 168 equals 63,975 pounds 100 denier yarn.

EXHIBIT III.—U.S. TRADE IN TEXTURED MANMADE FIBER YARNS 1970–81

[Pounds in thousands]

Year	Imports	Exports
1970	77,892	N/A
1971	145,087	N/A
1972	126,640	N/A
1973	100,271	39,515
1974	41,890	57,117
1975	30,999	53,505
1976	30,841	49,123
1977	48,399	56,592
1978	21,099	56,439
1979	11,979	143,825
1980	9,062	190,273
1981	12,174	317,860

Chairman Gibbons. Any questions?

Do any of the rest of you wish to make statements?

Thank you very much.

Our next bill is H.R. 6268 by Mr. Scheuer.

Our witnesses are Larry Goldstein, Morrie Much, Michael Lemov, and William Morris.

STATEMENT OF NATIONAL BULK VENDORS ASSOCIATION BY LARRY GOLDSTEIN, PRESIDENT, GRAFF VENDING CO., DALLAS, TEX.; ACCOMPANIED BY MORRIE MUCH, GENERAL COUNSEL, AND MICHAEL R. LEMOV, AND WILLIAM MORRIS, COUNSELS

Mr. **Goldstein**. Our association counsel, Morrie Much, is from Chicago, Ill. This is our special counsels Michael Lemov and William Morris from Washington, D.C.

Mr. Chairman, I understand and appreciate your making my full testimony a matter of the record. In the interest of time, I will just read a condensed version.

Chairman **Gibbons**. Your full statement will be included.

Mr. **Goldstein**. Before I do, I would like to submit to you some samples and photographs of the type of merchandise we are talking about so you and your colleagues can have a better understanding of the types of articles. They relate to small vending machines, not cigarette and soda pop type operations.

Chairman **Gibbons**. Thank you.

Mr. **Goldstein**. The National Bulk Vendors Association represents approximately 165 small businesses throughout the Nation engaged in the manufacture, operation, and servicing of bulk vending machines as well as the importation and distribution of the small toys, novelties, and gumballs vended through those machines.

In total, our industry provides jobs for over 10,000 Americans. I would like to add that many in our industry, myself included, hire many handicapped people in the assembly of those toys.

Approximately 30 percent of the merchandise we vend can be classified as small toys and novelty items. These are sold for 5 cents, 10 cents, and 25 cents. We are here today to urge the subcommittee favorably consider H.R. 6268 with an amendment we have agreed to with the Department of Commerce.

H.R. 6268, if amended as we recommend, would eliminate the duty on those small toys and novelty items imported at less than 5 cents per item, and would now exclude from exemption certain novelty items the administration objected to.

We believe the amendment we have agreed to is a reasonable compromise based on the facts available at this time. It will significantly aid our economically threatened industry and, we believe, facilitate passage of H.R. 6268. Our primary reasons for urging your favorable consideration are as follows:

The tariffs in question no longer serve a useful purpose. Although at the time the tariffs were enacted there existed an American manufacturing industry of the small toys and novelties vended, that industry has long since vanished. Thus, the tariffs no longer serve their primary function of protecting American industry from foreign competition.

We also estimate that the total amount of duty derived yearly from the small toys and novelties in question is a relatively small amount of approximately $1 million for the entire United States.

Economic conditions over the past decade have ravaged this industry of small businessmen. Inflation and the close of numerous national supermarkets and chain stores have reduced the small profit margin of vendors and deprived them of some of their main distribution outlets.

Moreover, the nature of the industry and its machines are such that increases in sales price to compensate for the ravages of inflation cannot be readily achieved. These machines are fixed for applications of a penny, nickel, dime or quarter. Thus, the vendor is forced to absorb additional overhead or provide the consumer with a less valuable product for the same or an upgraded coin.

Neither of these alternatives are desired by the vendors or the consumer.

Added to these difficulties are the current tariff schedules which involve at least 13 different tariffs ranging from 7.7 to 22 percent. These create administrative burdens and further impair the vendors' ability to remain in business. As a result of this combination of factors, our industry has witnessed, over the past decade, an alarming 50-percent reduction in the number of companies able to survive.

This trend will continue unless measures are taken to alleviate the burdensome and unnecessary tariff schedules on the inexpensive items such as you have before you. In order to assure that no possibility will exist for harm to befall any American industry, the National Bulk Vendors Association supports an amendment to the legislation specifically removing from tariff reduction the items mentioned by the Department of Commerce in its testimony and reducing the valuation figure currently in the legislation to 5 cents.

These alterations, eliminating marbles, balloons, and diecast toys, should completely allay the concerns of the Department while still providing our industry the help it needs to remain viable. We understand the Department does not oppose H.R. 6268 with this amendment incorporated.

A copy of that amendment is attached to our testimony as exhibit E. In the final analysis, Mr. Chairman, the real basis of our plea is people. We are appealing to you on behalf of thousands of employees and the hundreds of small businesses which are the employers in our industry.

We ask you to help our industry survive and continue to provide jobs and services to the American public and American children.

We stand ready to answer any questions you may have or furnish further information concerning H.R. 6268.

Chairman **Gibbons**. Any questions?

We appreciate your coming. Good luck in your business.

Mr. **Goldstein**. Thank you very much, sir.

[The prepared statement follows:]

STATEMENT OF NATIONAL BULK VENDORS ASSOCIATION BY LAWRENCE GOLDSTEIN, PRESIDENT, GRAFF VENDING CO., DALLAS, TEX.

SUMMARY

The National Bulk Vendors Association supports passage of H.R. 6268, with a recommended amendment which is agreed to by the Administration (Attachment A), for a broad variety of reasons. These reasons may be summarized as follows:

1. The current tariff schedules (imposing duties of 7.7 to 22 percent on small toys and novelty items) no longer serve a useful purpose. When those schedules were enacted approximately twenty years ago, there existed an American industry that manufactured the items described which was in need of protection from foreign competition. Such industry no longer exists. Now the only function served by the tariffs is to deprive the struggling bulk vending industry of the revenues it needs to preserve the industry and the jobs it creates.

2. We estimate that the loss of tax revenue caused by repeal of these tariffs will be insignificant in terms of revenue to the U.S. Treasury (perhaps $1 million per year) yet of great significance to the struggling companies in our industry.

3. The economic conditions existing over the past decade have ravished the industry. The annual sales, number of machines and number of persons employed have been reduced dramatically. Inflation and the closing of numerous national supermarkets have reduced the industry's already small profit margin and deprived it of some of its main distribution outlets. Moreover, the nature of the industry is such that increases in overhead cannot readily be compensated for. Vending machine slots are fixed for use of a penny, nickle, dime or quarter, thus forcing the vendor to absorb additional overhead or to market the item in the next highest price bracket thus providing the consumer with an inferior product. Neither alternative

will benefit the consumer or the vendor. As a result of this combination of factors, over the past decade the industry has witnessed an alarming 50% reduction in the number of companies able to survive.

4. The existing tariff schedules impose an administrative burden on the industry and the Customs Service. The duties imposed on the items imported range from 7.7 to 22 percent depending upon which of the 13 applicable classifications an item falls. Moreover, whether a particular item fits within one category or another has been the subject of frequent controversy. Consequently, different results have been obtained at different ports of entry.

H.R. 6268 represents a significant measure to assist our industry and preserve the thousands of American jobs which it creates. We urge this Subcommittee to favorably consider H.R. 6268, as amended by Exhibit E.

STATEMENT

Mr. Chairman and Members of the Subcommittee:

My name is Lawrence Goldstein, I am President of Graff Vending Company and Treasurer of the National Bulk Vendors Association. I am accompanied today by our general counsel, Morris Much of Chicago, Illinois and by our special counsel Michael R. Lemov and William Morris of Washington, D.C.

My company, based in Dallas, Texas, is one of the approximately 165 small businesses that are members of the National Bulk Vendors Association. We operate, distribute, import and service bulk vending machines located throughout the southwest and California. Bulk vending machines are typically non-electrically operated machines that dispense confections, gum balls, nuts, toys, and novelty items at random from bulk. They are in sharp contrast to the larger and more expensive electrically operated vending machines that dispense beverages, cigarettes, food, and similar articles. Our bulk vending machines are located mostly in supermarkets, department stores, theatres, bowling alleys and other retail establishments. We employ approximately forty salaried employees who service the machines, drive trucks, package the merchandise and perform other duties.

Nationwide, there are approximately 12 manufacturers of bulk vending machines, 30 to 40 distributors of the machines and their contents, and hundreds of vending machine operators. In total, the industry provides jobs for over 10,000 people throughout the United States. We believe that we serve a useful function creating jobs and selling enjoyable products mostly to America's children.

Approximately 30% of the merchandise which we sell in our machines can be classified as small toys and novelty items which are imported largely from Hong Kong and Taiwan. These are sold for five cents, ten cents and twenty-five cents.

We are here today to urge that the Subcommittee favorably consider H.R. 6268 (with certain amendments) a bill introduced by Mr. Scheuer of New York, which would eliminate the duty on certain small toys and novelty items which we sell in our machines.[1] Mr. Chairman, our industry needs H.R. 6268 because the economic viability of our industry has been seriously threatened in the past decade by a combination of inflation and maintenance of the tariffs in question.

---

[1] H.R. 5338 introduced by Mr. Brodhead and H.R. 5801 introduced by Mr. Scheuer would also achieve our objectives. The difference between these bills and H.R. 6268 is that they restrict the elimination of duty to small toys and novelty items intended to be sold at retail through bulk vending machines. Because these bills would require an end use determination by the Customs Service, our industry agreed to support H.R. 6268 which does not include any end use provision.

Our primary reasons for urging your favorable consideration of this legislation are as follows:

1. The tariffs in question[2] are an anachronism and serve no useful purpose. At the time they were enacted there was a small domestic industry that produced these imported novelties. No domestic industry exists at this time. In the last decade, the labor costs involved made it impossible for American producers to manufacture these items. (We have furnished the Subcommittee samples of the novelties in question together with photographs of our vending machines.) Since there is no domestic industry at this time, the tariffs no longer serve the purpose for which they were apparently intended and, therefore, they should be eliminated. Attached to our testimony as Exhibit A is a letter from the President of the Toy Manufacturers of America indicating that there is no domestic industry that they are aware of and also indicating support for this type of legislation.

---

[2] *See* 19 U.S.C. §1202, TSUS 735.19, 737.77, 740.30 and 740.34 through 740.38.

2. Our industry is composed entirely of small businesses. They are virtually all "Ma and Pa" operations. It is a significant hardship for them to pay a duty that may range from 7.7 percent to 22 percent on these imported novelty items.

3. Our industry in total is so small as to be de minimus in terms of tariff revenues. We estimate that the total sales of both vending machines and of the products distributed through them is less than $100 million per year in the United States. We estimate that the total amount of charms, novelties and small toys imported for sale in our machines is between $7 million and $10 million per year. Assuming an average duty of 14 percent (which is probably high) the total loss of revenue from the repeal of these tariffs would be approximately $1 million, an amount which we suggest is de minimus in terms of revenues to the U.S. Treasury, but which is of great significance to the struggling companies in our industry.

4. Current economic conditions have ravished the bulk vending industry. Annual sales have fallen in recent years as the number of people in the industry and the number of machines on location have dropped. We believe

the primary reasons for this reduction are 1) declining birth rates; 2) inflation and 3) the closing of numerous national supermarkets, thus reducing our outlets. In part, the problem is caused by the unique nature of the industry, in the sense that cost increases cannot be passed on in the form of higher retail prices to the children who are our purchasers. The coin slots on the simple mostly non-electrical bulk vending machines are fixed at either one cent, five cents, ten cents, or twenty-five cents. If the cost of merchandise goes up, the coin slot cannot be changed. As a result, operators must absorb much of the increased cost thereby diminishing or eliminating their profits until the operator cannot afford to absorb any further increased costs. At that point, an item previously vended through a five cent machine is then vended through a ten cent machine and corresponding items vended in ten cent machines would be increased to twenty-five cent machines. The result is a lesser value of merchandise available for children and a loss of incentive for persons to buy bulk vending products from our machines.

5. The existing schedules impose an administrative burden to the industry and the Customs Bureau. The duties imposed on the items imported range from 7.7 to 22 percent depending upon which of the 13 applicable classifications an item falls within. Moreover, whether a particular item fits within one category or another has been the subject of frequent controversy. Consequently, different results have been obtained at different ports of entry. Passage of H.R. 6268 would eliminate a portion of this burden thereby assisting both the bulk vending industry and the Customs Bureau.

Furthermore, our industry has not grown in recent years — rather, jobs have been lost and the financial pressures on the industry now threaten its very existence. In the 1960's there were perhaps as many as 1,000 operators spread across the United States. Today the estimated number of total operators is less than 500. The National Bulk Vendors Association has diminished in size during the same period from about 350 members to the current 165 members, the smallest number of members in over 30 years. Moreover, our profit margin is extremely narrow ranging from an estimated 2.3 percent of net sales to 4.7 of net sales. Attached to this testimony as Exhibit B is a bulk vending profit analysis prepared by our Association. As you can see, income before taxes is extremely low. We are also furnishing to the Subcommittee a bulk vending census for 1981 published in Vending Magazine which compares the industry over the past decade (Exhibit C). That census indicates that the total dollar volume has actually declined since 1978. Most important, the number of machines on location has declined sharply in the last decade.

Mr. Chairman, the foregoing are the primary reasons for our request that this Subcommittee grant us relief from an unnecessary tariff. Several states have already recognized the plight of the bulk vendors of America and have enacted legislation exempting from sales tax certain classifications of bulk vended merchandise and/or exempting from licensing fees the companies that so vend (Exhibit D).

We understand that the Department of Commerce raised objections to H.R. 6268 on the grounds that there exists some domestic industry involving the manufacture of balloons, marbles and certain die-cast toys — items which could possibly be sold through bulk vending machines. The Department of Commerce also raised a concern that foreign manufacturers may be able to duplicate, at lower costs, American products which currently are valued at more than 15 cents each — thus possibly damaging American manufacturers. While we disagree with the contentions of the Department of Commerce, in order to assure that no possibility will exist for harm to befall any

American industry, the National Bulk Vendors Association supports an amendment to H.R. 6268 specifically protecting from reduction tariffs currently imposed on balloons, marbles and die-cast toys. We also support a provision reducing the valuation figure employed in the legislation to five cents for each item. We believe this amendment to H.R. 6268 will satisfy the concerns of the Administration while still providing significant assistance to our struggling industry. A copy of the proposed amendment which has been agreed to by our industry and the Administration and was drafted by the International Trade Commission, is attached to our statement as Exhibit E.

In the final analysis, the real basis for our plea is people. We are appealing to you on behalf of the thousands of employees and the hundreds of small businesses which are the employers in our industry. We ask you to help our industry survive and to continue to provide jobs and services to the American public. We stand ready to answer any questions the Subcommittee may have or furnish any further information concerning H.R. 6268 and the bulk vending industry. We thank you, Mr. Chairman, and the Subcommittee for your consideration.

April 21, 1982

Mr. Michael R. Lemov
Leighton Conklin Lemov
Jacobs and Buckley
2033 M Street, Northwest
Washington, D.C. 20036

Dear Mr. Lemov:

As we discussed on the phone, the Toy Manufacturers of America would offer no objection to a proposal to exempt from duties the small toys and novelty items sold in vending machines.

A review of our membership indicates that such items, valued at fifteen cents or less per item, are not part of this domestic industry.

Yours very truly,

Douglas Thomson
President

DT/ik

cc: Aaron Locker

EXHIBIT A

200 FIFTH AVENUE/NEW YORK, N.Y. 10010/PHONE (212) 675-1141

BULK VENDING PROFIT ANALYSIS
1982

	1¢		5¢ & 10¢		25¢	
	$	%	$	%	$	%
Annual Revenue	75.00	100.0	100.00	100.0	110.00	100.0
Store Commissions	23.25	31.0	31.00	31.0	34.10	31.0
Net Sales	51.75	69.0	69.00	69.0	75.90	69.0
Expenses:						
Cost of Merchandise	19.50		26.00		29.70	
Auto Expenses	6.00		5.00		5.00	
Repairs and Maintenance of Equipment	2.25		3.00		3.00	
Freight Expense	3.00		4.00		4.00	
Insurance	2.25		3.00		3.00	
Depreciation (over 10 years)	4.00		4.00		4.00	
Overhead	5.25		7.00		7.00	
Routemen's Salary	6.75		9.00		9.00	
Sales Taxes and Licenses	1.00		2.00		3.00	
Total Expenses	50.00	66.7	66.00	66.0	70.70	64.3
Net Before Income Taxes	1.75	2.3	3.00	3.0	5.20	4.7

EXHIBIT B

BULK VENDING

The number of machines out on location declined, as operators continued to retire older equipment. While unit volume dipped 3.6 per cent, dollar volume increased 2.2 per cent as operators concentrated on top traffic outlets, such as shopping centers and supermarkets. With more higher-priced products featured, 53 per cent of the merchandise was vended at 25 cents-and-over.

	1970	1978	1979	1980
TOTAL DOLLAR VOLUME	$305,416,000	$485,000,000	$460,000,000	$470,000,000
TOTAL UNIT VOLUME	6,232,977,000	2,855,000,000	2,590,000,000	2,495,000,000
WEEKLY UNIT VOLUME	101	62	60	60
MACHINES ON LOCATION	1,286,000	885,000	830,000	800,000

PRODUCT SALES	1978	1979	1980
Ball Gum	37%	50%	42%
Nuts	12%	14%	10%
Capsules, Trinkets	33%	22%	28%
Pan Candies	15%	7%	7%
Other	3%	7%	13%

VENDED PRICES/SALES SHARE	1978	1979	1980
1¢	3%	8%	5%
5¢	14%	16%	18%
10¢	30%	28%	24%
25¢	43%	36%	40%
over 25¢	10%	12%	13%

EXHIBIT C

[illegible] 346-3100 NATIONAL BULK VENDORS ASSOCIATION Suite 2323
135 South LaSalle Street
Chicago, Illinois 60603

PARTIAL LIST OF TAX RELIEF

There are many states which have recognized the special needs and problems of our industry and have enacted exemptions for sales through bulk vending machines. The essential ingredient to this special legislation is our definition of a bulk vending machine which sets us apart from the balance of the vending industry:

> "A non-electrically operated vending machine, containing unsorted confections, nuts or merchandise which, upon insertion of a coin, dispenses the same in equal portions, at random and without selection by the customer."

Our first statewide effort for this legislation was in Illinois and resulted in the passage in 1971 of an amendment to the Retailers Occupation Tax Act (sales act) which exempted sales through one cent bulk vending machines. Ill. Rev. Stats., Ch 120, §§ 440 and 439.2.

The states of Iowa, Connecticut and Kentucky among others, also exempt from licensing and/or sales tax any vending machine dispensing only ball gum or similar nonperishable snacks. Conn.-Conn. Gen. Stat. § 12-412(aa) (1979) [sales tax exemption for one cent vending machines, license fee required]; Iowa-Iowa Code Ann. § 191A.2 (West 1971) [license fee exemption, no sales tax exemption]; Ky.-Ky. Rev. Stat. §§ 139.470(6) and 217.811 (1971) [sales tax exemption for one cent vending machines, exemption from permit and fee requirements].

Regarding sales taxes, the following states have exempted from sales tax those sales priced below the specific amounts as indicated:

STATE	AUTHORITY	AMOUNT
Indiana	Ind. Code Ann. § 6-2.5-2-2(a) (Burns 1978)	15 cents or less
Maryland	Md. Ann. Code Art. 81, § 325 (1980)	19 cents or less
Ohio	Ohio Rev. Code Ann § 5739.02 (Page 1980)	15 cents or less
W. Virginia	W. Va. Code § 11-15-11 (1974)	15 cents or less
N. Dakota	N.D. Cent. Code § 57-39.2-03.3 (1972)	15 cents or less

EXHIBIT D

The above states exempted all sales at the indicated prices. The following states specifically exempt sales from vending machines from the sales tax with prices below a certain amount:

Idaho	Idaho Code § 63-3622(o) (1976).	15 cents or less
Nebraska	Neb. Rev. Stat § 77-2704(j) (1976)	Less than 15 cents
Texas	Tex. Tax Code Ann. Tit. 122A, § 20.04 (Vernon 1969)	16 cents or less
Virginia	Va. Code § 58-441.34 (1974)	10 cents or less

In Virginia, a tax of 4% of the wholesale cost of goods purchased for sale at retail is scheduled to replace the above exemption effected July 1, 1982.

At least one state exempts all vending sales of candy, nuts, chewing gum, etc. from sales tax:

Michigan	Mich. Comp. Laws § 205.54(g) (1978)

At least five states give specific relief to operators of vending machines when the sales are priced at 10 cents or less and after certain other qualifications are met. The other qualifications usually involve the requirement that the retailer be primarily engaged in the business of making such sales and keeping records satisfactory to the local Tax Assessor or Tax Collector:

Maine	Me. Rev. Stat. Ann. Tit. 36, § 1760(34) (1978)	15 cents or less
Mass.	Mass. Ann. Laws ch. 64H, § 6(t) (Law. Co-op 1978)	10 cents or less
New Jersey	N.J. Stat. Ann. § 54:32B-8.9 (West 1960)	10 cents or less
New York	N.Y. Tax Law § 1105(d)(ii)(c) (McKinney 1975)	10 cents or less
S. Carolina	S.C. Code § 12-35-550(22) (1976)	10 cents or less

The states of Connecticut and Minnesota tax vending sales at special rates. Conn.-Conn. Gen. Stat. § 12-408(i)(b) (1979) [3 1/2% tax on sales of 7¢ or less instead of 7% general rate]; Minn.-Minn. Stat. Ann. § 297A.02 (West 1972) [3% tax instead of 4% general rate].

AMENDMENT TO H.R. 6268

Strike out all after the enacting clause and insert the following in lieu thereof:

That subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new item:

"	912.20	Articles provided for in subparts D and E of part 5 of schedule 7 (except ballons, marbles, dice, and die-cast vehicles), valued not over five cents per unit; and jewelry provided for in subpart A of part 6 of Schedule 7 (except parts), valued not over 1.6 cents per piece, if individually encapsulated for distribution through bulk vending machines.	Free	No Change	On or before 12/31/86

SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on and after 15 days following the enactments of this Act.

EXHIBIT E

Chairman GIBBONS. Our next bill is H.R. 6396 by Mr. Gibbons. We have the National Needlework Association, Mr. Dennis Smith, president and a number of other witnesses if they would come forward.

STATEMENT OF THE NATIONAL NEEDLEWORK ASSOCIATION BY DENNIS SMITH, PRESIDENT NATIONAL SALES MANAGER, CARON INTERNATIONAL/COLUMBIA MINERVA; ACCOMPANIED BY DAVID PAGE, VICE PRESIDENT, DIMENSIONS, INC., JOYCE DAVIDSON, PURCHASING AGENT, CRAFT SHOWCASE DIVISION, COLE NATIONAL CORP., AND MICHAEL SMOLENS, IMAR MARKETING, INC.

Mr. DENNIS SMITH. Good afternoon, Mr. Chairman. I want to thank you on behalf of the needlecraft industry for introducing this important bill.

We are here in support of the bill H.R. 6396 which is basically to provide for the duty-free treatment of certain needlecraft display models and for other purposes.

My name is Dennis Smith. I am the national sales manager for Caron International/Columbia Minerva, a company that employs approximately 1,200 people. I am also president of the National Needlework Association, which has a membership of 1,000 companies and which I represent today.

I would like to introduce those with me. Due to the time element, we will offer a condensed version of their testimony which has been submitted.

Chairman GIBBONS. Fine.

Mr. DENNIS SMITH. This is Joyce Davidson, representing a chain of 46 retail craft stores located throughout the United States. Her written testimony explains the needs by the retail community for needlecraft display models; Dave Page, vice president of the Dimension Co., Reading, Pa., a kit manufacturer, who contracts with Mr. Michael Smolens who is president of IMAR Marketing Co. that is responsible for the kit into which the material is put.

Also a lot of people are mystified by what our industry is. I would like to submit so you can see the actual comparison we are talking about of kit versus model.

Chairman GIBBONS. That would be interesting.

As I understand what you are talking about, this item that is framed like a picture is the model? That is what you want to import?

Mr. DENNIS SMITH. Correct. What we currently do now, all materials, as you can see from the kit component, are made domestically in the United States. This is then exported to Haiti whereby a contract is made for the actual work of the model to be completed.

Part of our business which is highly important yet a small part, is the model. When a store buys this particular model it will help sell three to four times more kits. Our biggest problem in the model entity has been the rising costs and the problem of the retailer bringing this model in, thus less kit manufacturing is done here in the United States.

The bill hurts no one but helps the industry here in the United States itself. In America, this is a growing industry and we want to continue to make it grow by kit sales. The advantageous basis of having a manufacturing kit volume increased by the model sales is proven by Ms. Joyce Davidson's testimony, where she states this helps her at the retail level.

The United States at the same time would be helping a Third World country with no loss of jobs in the United States, since the labor rates here in the United States are prohibitive for having these models made here. The industry kit market is estimated at $428 million at retail and the model import at $8 to $10. The relationship of model to kit is, as I said before, conservatively three to four times and is therefore highly important in our manufacturing more kits' domestically made materials.

Lower costs will mean more models sold, therefore will mean more kits being produced, and more jobs here in the United States. In summary, due to the time element, hopefully the—looking over the model, along with the kit and realizing that this will help everywhere from frames to matting to fabrics to even the yarn itself that is totally domestically made and therefore we are really importing to help stimulate more sales here in America.

That covers the points that I wanted to bring up.

[The statements of Dennis Smith, Joyce Davidson, David Page, and Michael Smolens follow:]

STATEMENT OF DENNIS SMITH, NATIONAL SALES MANAGER, CARON INTERNATIONAL/ COLUMBIA MINERVA, INC., PRESIDENT, THE NATIONAL NEEDLEWORK ASSOCIATION

Mr. Chairman, my name is Dennis Smith and I am here to testify in support of the bill H.R. 6396 to grant duty-free treatment to needlecraft display models. I am the national sales manager for Caron International/Columbia Minerva, a company that manufactures both yarn and needlecraft kits. We have plants in Illinois, Pennsylvania and New York and employ about 1,200 people. I am also the president of the National Needlework Association, an institution that represents the entire needlecraft industry.

The TNNA has a membership of almost 1,000 companies, involving all aspects of needlecraft, from large yarn manufacturers to mail order houses to small needlecraft kit retailers. The oldest and most respected magazine in the needlecraft industry, Sew Business, estimated in February of this year that needlecraft kit and related sales, in retail dollars, approached $428 million in 1981.

I would like to explain why we need this bill to further our industry's growth. Needlecraft kits are sold in various ways. Some retail in large chains of craft stores. Others sell in small individually owned needlework shops. Many are sold in discount stores such as K-Mart. In whatever sales environment employed, the use of a display model has been found to be invaluable for marketing purposes. These display models are exact replicas of the finished product made from a kit. They are often studied carefully after a purchase simply to assure the buyer of his or her own progress, but their major use is to attract customers, for many are striking and beautiful.

These displays are not easy to come by. Due to the overwhelmingly large amount of time involved in making a display model, it is not possible to have them produced in this country. This is the precise reason why no domestic production exists for finished needlework retail. It is economically prohibitive. The best solution, therefore, is to export the U.S. produced materials, such as the yarn, fabric, matting, thread, etc., to a third world country, where hand labor is much less expensive. The needlework is performed on the U.S.-produced materials, re-imported into the United States and taxed at duties which average 25 percent of their value. Another estimated 25 percent is added to the value in this country by framing or otherwise readying the needlework for use as a display model.

The kit manufacturers then sell these display models to the various retail stores. Despite the low-cost labor involved, they still are worth less than their cost, and the kit producers must sell the models at a loss of roughly 20 percent to the retailers. Their reasoning is sound: retailers won't buy displays at the kit producer's cost and the kit producers have determined that the display models sell enough additional kits to overcome their 20 percent loss on display model sales to retailers.

The National Needlework Association performed a survey among the major display model importers to determine their intentions if the duties were to be removed. Every person contacted was adamant in his intention to pass what would amount to about a 20 percent savings on to the retailer. Again, the reasons are economic. The retailers could buy 20 percent more display models, increasing kit sales to a level where the kit manufacturers would more than recover their losses on the displays.

My association also asked the importers to estimate the dollar amount of imports world-wide for needlecraft display models (the value of the product which presently is subject to customs duties). The estimates, of course, vary. The low value was an estimate of $5 million. The high estimate ranged from $10 to $12 million. I personally estimate the display model imports level to be approximately $10 million.

What this bill attempts to accomplish is a correction of a customs oversight that is serving to substantially dampen U.S. sales of domestically produced goods. At roughly a cost of $25 per display model, the industry would produce some 80,000 more display models if the duties were suspended. Our studies have determined that a display model would sell a minimum of 10 kits, or an overall total of 800,000. The price of each kit averages, to use a conservative estimate, $10, so we would expect a growth of $8 million in our retail sales to occur as a result of duty-free treatment. Job opportunities would open up at all levels of the needlecraft industry—in the yarn and mat producing areas, the kit manufacturing area, in the retail area—in order to handle the increased market. Looking at the ratio of potential growth of $8 million to the current market of $428 million, one expects an increase of approximately two percent in the industry.

We are in a very lean and efficient industry. A two percent growth would signify a corresponding two percent growth in employment, or about 400 new jobs for the kit manufacturers. If employment growth in the retail and material production areas of the industry are considered, my estimate of employment growth, which I believe to be very conservative, is 1,000 new jobs for U.S. citizens. This opportunity for growth should be made possible, particularly when there is absolutely no other U.S. industry or workers who will ever be injured as a result of the duty suspension. I hope that a duty suspension will occur soon. In my position within the industry I see nothing that could be more logical and more beneficial to all of the businesses concerned. I thank you.

STATEMENT OF JOYCE DAVIDSON, BUYER, COLE NATIONAL CORP., CRAFT SHOWCASE DIVISION

Mr. Chairman, my name is Joyce Davidson. I am a buyer for the Craft Showcase Division of the Cole National Corporation, a chain of 46 craft stores located in shopping malls throughout the midwest, northeast and southeast. Our stores sell many different types of craft items but a major portion of our business is art needlecraft. We sell the needlecraft in a do-it-yourself kit which comes in a small plastic bag or cardboard box.

Our stores are located in malls for a purpose: the human traffic found at such shopping centers is necessary to sell our type of luxury product. There is not any obvious location for a sign advertising our store outside of a mall. We must therefore make our store inside the mall appear striking and appealing in order to encourage people to enter. We accomplish this by using needlecraft display models in our windows, doors and side walls. Models attract people, the displays catch their eyes. By virtue of the displays' drawing power, they increase our sales on all crafts.

Additionally, each model that displays the finished product of a particular kit increases the sales of that kit tremendously. My company performed a market study by noting the sales of a specific kit line at stores with and without the corresponding display models. The results varied widely, depending on the kit line, but overall we found the kit sales in stores with a display model to be 4 to 6 times the sales of identical kits in stores lacking such a model. Although I cannot quantify their overall influence, I can state unequivocably that the needlecraft display models drive our business. Lower prices for display models would permit us to buy more models and thus increase our sales of kits.

Unfortunately, needlecraft display models are very costly. I spend hundreds of thousands of dollars a year on display models. Our company division does make an effort to sell them after their display use ends, but many are stolen or simply taken home by the employees. Many are also soiled or damaged quickly from customer handling. Due to this and the undeniable fact that the purchasing of finished products is not the intent of our customers, we can only consider the display models as a major capital expense. It is an expense that, though necessary, causes no end of debate and friction among the executives in our division. Their cost limits the amount that we would like to purchase, despite their obvious advertising qualities.

It is for these reasons that I have come before you to testify on behalf of this bill, which intends to relieve the duties imposed upon needlecraft display models. Less costly display models would definitely be a much needed shot in the arm to our craft business and others like us. Display model costs are the current limiting factor in our growth. A duty suspension would help everyone connected with the needlecraft industry and hurt no one. I thank you.

Statement of David Page, Vice President, Dimensions, Inc.

Mr. Chairman, my name is David Page and I am the Vice President and part-owner of Dimensions Inc., in Reading, Pennsylvania. Dimensions is a manufacturer of needlecraft kits which are marketed and sold to retail establishments and catalog houses nationwide, in Canada and in Great Britain. Dimensions have been in business just under six years and presently employs 189 persons. We have 23 sales representatives across the country, advertise nationally through women's magazines and trade journals, exhibit at eight regional trade shows and mail full color brochures semi-annually to approximately 3,800 accounts.

Our business is seasonal and very much like the fashion industry in that we design approximately 100 new designs twice a year. We have contracts with 18 independent designers throughout the country whose artwork is then transferred into a needlecraft kit by our in-house design staff.

We are not a vertical company and require all material components to be purchased from approximatley 50 outside suppliers, all of whom are dependent in varying degrees on our business growth. We inventory approximately 2,500 components and 800 finished kits and display models.

We have a problem. Dimensions and others in our industry are facing a no-win situation and it is this situation to which I want to address my testimony. Never before have I felt a need for interaction between small business, government, the economy, unions, politics and international affairs, and never before did I think these entities would mean so much to me personally.

The needlecraft industry has grown over the years, but is now coming to a screaming halt, due in part to the state of the national economy, but more specifically because of an inability to place display models in a retail store. A display model in a store can increase kit sales three to five times over the number sold at a store that does not have a display model. A display model is a finished piece of needlecraft that a retailer will purchase to promote the sales of kits. Although the pictorial graphics of our kits are good, they cannot take the place of a finished item in catching the consumers' eye and making her want to purchase the kit.

Our problem is the high cost of these display models to the retailer It has increased considerably over the past few years and there has deveolped a great resistance to purchasing these display models. This is seriously affecting kit sales, our only business.

Display models can only be hand-made and thus are labor intensive. A 16 x 20 inch picture can take 40 to 60 hours of stitching time. Therefore, no manufacturer has them made in the United States. Our display models are hand-made in Haiti where we pay a basic labor rate of around 70 cents an hour. On top of this, we pay an average of 25 percent duty on this labor, and another 25 percent finishing costs to mount, mat and frame these models when they return to the United States.

In the past five years we have had two Haitian labor increases, imposed by their government, in excess of 20 percent. We have done everything possible to negotiate the best price from our Haitian contractors and reduce our finishing costs in the United States. Dimensions has always sold display models at a loss of around 20 percent just to get the placement in the retail store. We have even been giving the retailers a free kit with each model sale to entice the purchase of a display model.

We are willing to continue these practices, but require still more help and ask that the proposed bill to suspend import duties be passed so that we can lower model costs and induce kit sales. We urge you to take into account the following considerations:

(1) By taking these articles out of the textile tariff categories and suspending the duties, will the textile industry be affected? Yes, in a positive way. We will be able to increase kit sales, thus purchasing more textile products. 75 percent of our component costs is made up of yarn and woven fabrics.

(2) Will we be affecting American jobs? Kit manufacturing involves a relatively large labor force. Increased kit sales will increases American jobs.

(3) What effect will a duty suspension have on third world developing countries? More models would be purchased, increasing job opportunities for the Haitian labor force, which is now suffering from an 85 percent unemployment rate. It will also put the money directly into the Haitian people's hands. Isn't this the prime concern of the Administration's Caribbean Basin Initiative?

(4) Are display models made in the United States?

They are not and never will be made in the United States, because it is simply cost prohibitive. This is an an unusual situation where the greater the level of imports, the healthier our American industry becomes. They should therefore not be restricted with import duties.

(5) In urging consideration, we have already experienced a declining model sales which has reduced Haitian employment. By the end of June, I fully expect to lay off two of my ten people in the United States because of declining model sales.

The key point there is that we do not only want to increase our growth, but maintain what we have.

In the interest of fair competition, I have excluded specific figures as they apply to Dimensions in this public testimony, but would be more than willing to provide them privately if necessary.

I strongly urge full consideration and approval of the bill H.R. 6369.

STATEMENT OF MICHAEL SMOLENS, HAITIAN MANUFACTURER OF NEEDLECRAFT DISPLAY MODELS, IMAR MARKETING, INC.

Mr. Chairman, my name is Michael Smolens. I have been a principal in a large manufacturing company in Haiti for the past 11 years, and am President of IMAR Marketing, Inc., a sales representative agency based in New York. I am here today to testify in support of the bill H.R. 6369 which will suspend the duties on needlecraft display models. The biggest part of my Haitian company involved making needlecraft display models for U.S. producers of needlecraft kits. The kit producers send me a request to make a newly designed kit display, along with all of the materials that I will use in the display models' construction.

I directly employ roughly 2,500 Haitians. However, many of my employees are small Haitian entrepreneurs in their own right, employing as few as two or three and as many as 40-50 Haitians to perform the handiwork which I then use. I therefore estimate the number of Haitians offered employment through my business to be approximately 4,000. I do have competitors in Haiti, and although I do not have access to their employment statistics, I have a good feel for the level of production. I estimate the total Haitian employment figure for needlecraft display models to be between 8,000 and 10,000.

I am absolutely satisfied with my choice of Haiti for my business location. the Haitians are hard-working and desperate for employment. To take one example, I opened a new plant three years ago, but before the completion of the plant's plumbing and electrical systems, it became known through word-of-mouth of my intention to hire. When I arrived at the new plant on a Monday morning, 500 Haitians were lined up outside waiting to sign up for a job.

The problems of Haiti stem from a lack of an industrial infrastructure to support the population. As this Subcommittee is aware, the intention of President Reagan's Caribbean Basin Initiative was to encourage such an infrastructure in the Caribbean nations. This particular bill fits in exactly with the Administration's intention, with the added (and quite rare) benefit of equally encouraging the U.S. private sector. I expect that two to three thousand more job opportunities for Haiti will open up as a result of a duty-free treatment on needlecraft display models, for the kit producers would be able to buy 20 percent more of them.

In summary, duties on the needlecraft display models serve no purpose. the temporary suspension would harm no American worker or producer. Rather, a duty suspension eliminates an unnecessary cost and would increase the sales, profit and employment of U.S. companies that manufacture the components that go into a needlecraft kit. It would equally benefit the free-lance designers of the kits, small companies in the U.S. that ready the models for display by framing, hanging, stuffing, etc. (only the needlework is performed overseas; nothing else), and all of the thousands of craft retailers, large and small, who sell the kits. It would also benefit the third world countries that manufacture the display models and expecially the country of Haiti, where between 60 and 90 percent of the models are made.

No one can be faulted for the current imposition of the duties. The display models were placed in tariff schedule categories that represented the models' resemblance to other imported articles, whether they are wall hangings or pillows. The anomaly occurred because no one at Customs was made aware of their unique purpose when the models were first introduced. The anomaly, nevertheless, should be corrected. It would be an error to continue to collect the duties to the detriment of all the countries involved. I therefore ask the Trade Subcommittee of the House Ways and Means Committee to favorably report H.R. 6369 to grant a duty suspension to needlecraft display models. I thank you.

Chairman GIBBONS. This material is made in the United States? It is essentially a supply of raw materials along with a mat in a plastic bag. That is all produced here?

Mr. DENNIS SMITH. Yes, sir. Totally produced here in the United States.

Chairman GIBBONS. In order to merchandise it you have to let the customers see what their work will look like after going through many laborious hours of putting it together.

This is what you would like to import?

Mr. DENNIS SMITH. Correct. A prime point on this is that that particular model took 50 hours to complete. If you look at what could be done in the United States at a minimum wage, that would be in excess of $200 to complete. Therefore we have to go to a Third World company to bring in some that the consumer can actually see before she purchases and after she purchases how to complete that kit.

Chairman GIBBONS. That is very interesting. It is a very attractive work that has been done here. You say—how many hours does it take?

Mr. DENNIS SMITH. Approximately 50 hours, sir.

Part of it——

Chairman GIBBONS. If I did it, it would take 3,000 hours.

Mr. DENNIS SMITH. That model costs $47 for Dimensions to manufacture. In order for our business to get the kits, a manufacturer sells this to the retailer for $36 which is a loss. The retailer after that has been hung up on a wall to sell that kit for a year, 2 years, possibly even, depending upon the longevity of the kit, for 3 years would probably have no value whatsoever, but it is tying up an investment of dollars into these models with no return, outside of the kit increase in sales.

Chairman GIBBONS. I notice this is a Pennsylvania corporation?

Mr. DENNIS SMITH. Yes, sir.

Chairman GIBBONS. Reading, Pa.

Mr. DENNIS SMITH. We noticed Mr. Bailey was here. Yes, there are two companies; Caron/Columbia Minerva is based in Pennsylvania. You will find a lot of manufacturers based in Pennsylvania. The one thing I want to make sure you understand, as a National Needlework Association representing 1,000 companies, there is not one State that is not affected by the needlework industry from a manufacturing or retail standpoint.

I believe the bill itself is a commonsense bill. It is bringing in imported labored models, not material, so we can help sell more kits which add to further employment within our industry.

Chairman GIBBONS. Ms. Davidson, would you like to tell us what impact it has upon your sales?

Ms. Davidson. We have done studies of our item sales of both modeled and unmodeled. We find we sell anywhere from three to seven times as many units of the same type of kit if we have a framed model hanging in the store.

Chairman Gibbons. Would not just an ordinary picture of it do just as well?

Ms. Davidson. No. We have had also in our stores at various times framed photographic models of the same items. They do not have the same impact at all. They are not as attractive to begin with. Also, my customers are looking for—to actually see the stiches, to use it as a guide to determine whether it is the type of work they want to do.

Chairman Gibbons. It is a very attractive piece of artwork also, the finished product. Those could be family heirlooms. I remember when Norman Rockwell had this on the front of the Saturday Evening Post. I used to sell the Saturday Evening Post; 5 cents a copy; another Pennsylvania product.

Thank you very much.

Mr. Dennis Smith. Thank you. I want to thank you for letting us appear.

Chairman Gibbons. We now go to H.R. 3649 by Mr. Hollenbeck. Our witnesses will be Mr. George E. Miller and Beth C. Ring.

STATEMENT OF TRANS CHEMIC INDUSTRIES AND CHEMINOVA OF DENMARK PRESENTED BY BETH C. RING, COUNSEL

Ms. Ring. I am Beth Ring, an attorney with the firm of Freeman, Wasserman & Schneider in New York. I am here today representing Trans Chemic Industries, Inc. of Secaucus, N.J., and Cheminova of Denmark.

H.R. 3649 is a bill to correct an error in the tariff treatment of the pesticides ethyl and methyl parathion. These products are currently classified under Item 408.28 of the tariff schedules of the United States. The duties assessed on these pesticides were inadvertently increased by more than 50 percent when the valuation provisions of the Trade Agreements Act of 1979 were enacted, even though the enactment was intended to maintain the then current level of duty assessment.

This increase resulted from the fact that methyl and ethyl parathion were included in a basket tariff provision for insecticides when the duties assessed on the American selling price method of appraisement were converted to an ad valorem equivalent rate of duty.

Until 1979 imports of methyl and ethyl parathion were small or nonexistent because of competitive conditions in the United States, where the domestically produced product was available at prices lower than prices at which the imported product could be offered and not because of the high duties generated by the valuation on the basis of the American selling price.

However, because these products were deemed "competitive," they were not separately enumerated for conversion purposes but rather were pooled together with those pesticides which were actually imported. The equivalent ad valorem rates of duty for the pesticides actually imported were substantially higher than the rates which would have been applicable to methyl and ethyl parathion, that is 12.9 percent for methyl parathion and 15 percent for ethyl parathion, rather than the 20.1 percent which resulted from the conversion.

Consequently, these pesticides were swept up in a provision which carried a converted rate of 20.1 percent. This result was contrary to the purpose of the Tokyo Round of multilateral trade negotiations and the intent of the Congress in enacting the rates converted from the American selling price.

Congress specifically stated that the conversions from the American selling price were "designed to insure that U.S. industries producing the merchandise in question will receive protection substantially equivalent to the protection they receive from the present rates of duty."

The new converted rates of duty were not intended to increase the amount of duties to be collected. H.R. 3649 seeks to correct this error and to make the rate of duty assessed on methyl and ethyl parathion substantially equivalent to the rate which would have applied had these products been imported during the period used to calculate the converted rates.

The administration, however, opposes this bill. The administration maintains this bill proposes a tariff reduction from a converted rate which represented an intentional increase when implemented. Further, the administration takes the position that imports of methyl and ethyl parathion "compete directly with domestic production."

The administration's position is irrational and just wrong. First, any claim that the converted rate on methyl and ethyl parathion was an intentional duty increase is directly contradicted by the statements of the Senate Finance Committee in enacting those converted rates and the U.S. International Trade Commission in determining them.

Second, as Mr. Miller's testimony will address in further detail, while there is domestic production of this product, there is only one domestic producer. Where once there was a competitive U.S. industry producing parathions, there is now a monopoly. Without Cheminova, American farmers have only one source of supply for these vital pesticides. But the increased customs duties are an unnecessary, inflated cost to American farmers while affording unneeded protection to a producer with 96 percent of the market.

Further, to speak of revenue loss in reference to these products is illusory, since imports are relatively insignificant and any excess duties collected by virtue of this tariff error have been a windfall to the Government since July 1980.

It is essential to both agricultural producers and consumers alike that there be an alternative source of supply. The passage of H.R. 3649 should not be viewed as a unilateral tariff concession but rather the correction of an inadvertent enormous duty increase which is unfair to the American farmer and which was neither realized or intended during the delicate balance which was reached during the Tokyo Round of multilateral trade negotiations.

I would like to present Mr. George Miller, vice president of Trans Chemic, who will explain a little bit more about the parathion industry in the United States.

STATEMENT OF GEORGE E. MILLER, VICE PRESIDENT, TRANS CHEMIC INDUSTRIES, INC., ACCOMPANIED BY BETH C. RING, ATTORNEY, FREEMAN, WASSERMAN & SCHNEIDER, N.Y.

Mr. MILLER. Mr. Chairman, I appreciate this opportunity of being able to come before you and testify. We support the passage of H.R. 3649 because we feel it is crucial to American agriculture. In the past, there were six producers of methyl and ethyl parathion in the United States. However, today there is only one producer, Monsanto.

American farmers have a need and must have alternate sources of supply of all their pesticides; however, the unintentional duty increase on the parathions has created a barrier to imports.

Cheminova has been a producer of the parathions since the fifties, and exports all over the world at competitive prices. We feel that their presence, Cheminova's presence here, has been a stabilizing influence in the parathion marketplace; however, the new greatly increased tariffs on the parathions have caused Cheminova to reexamine their long-range position and objectives on the American market.

The higher tariff has also raised the price to the American farmers. Competition in the marketplace is essential for our American farmer. American agriculture today is in very bad trouble. Low prices for grain and cotton, low cash reserves and high interest rates have placed the farmer in a very poor position. He needs every possible advantage in reducing his costs of growing his crops.

The chemical industry has from time to time had production problems and the American farmer cannot afford to be at the mercy of only one source of supply in the event that production problems occur, shortages occur or just pure price gouging.

I believe the real issue here is not whether one American producer can supply the entire market in the United States, but whether or not a one producer system will benefit the entire country. Without the presence of Cheminova in the parathion market, the American formulator would have no choice. There would be no alternate source of supply. There would be no competition.

We urge your support of the passage of H.R. 3649. The bill does not seek a reduction of duty on ethyl and methyl parathion, but a correction of a tariff mistake. We urge you to pass H.R. 3649 and keep competition in American agriculture.

[The prepared statement follows:]

STATEMENT OF GEORGE E. MILLER, VICE PRESIDENT, TRANS CHEMIC INDUSTRIES, INC., SECAUCUS, N.J.

SUMMARY

Passage of H.R. 3649 is crucial to the American agricultural sector. While there were formerly six United States producers of methyl and ethyl parathion, there is now only one, Monsanto. American farmers must have an alternate source of supply. However, the unintentional duty increase on these pesticides has created a barrier to imports of these materials.

Cheminova of Denmark has been a producer of the parathions since the 1950s and exports all over the world at competitive prices. We feel Cheminova's presence here has been a stabilizing influence in the parathion marketplace. However, the new greatly increased tariffs on the parathions have caused Cheminova to re-examine their long-term objectives in the American market. The higher tariff cost has also raised the price of the imported material to the American formulator.

Fair competition in the marketplace is essential for our American farmer. American agriculture today is in trouble. Low prices for grain and cotton, low cash reserves and high interest rates have placed the average farmer in a very poor position. He needs every possible advantage there is to help reduce the costs of growing his crops. Historically, there have been production problems in the chemical industry, and the American farmer cannot afford to be at the mercy of only one source of supply in the event of production problems, shortages, or price gouging.

The real issue here is not whether one American producer can supply the entire market, but whether or not a one-producer system will benefit the entire country. Without the presence of Cheminova in the parathion market, the American formulator would be left no choice. There would be no alternate source of supply. There would be no competition.

We urge your support of the passage of H.R. 3649. This bill does not seek a reduction of duty on ethyl and methyl parathion but the correction of a tariff mistake. We urge you to pass H.R. 3649 and keep competiton in American agriculture.

SUMMARY OF STATEMENT ON BEHALF OF TRANS CHEMIC INDUSTRIES, INC., SECAUCUS, N.J.

H.R. 3649 seeks to correct an anomaly in the tariff treatment of two pesticides, ethyl and methyl parathion, currently classified in item 408.28 of the Tariff Schedules of the United States (TSUS). The duties assessed on these pesticides were increased by more than 50 percent when the valuation provisions of the Trade Agreements Act of 1979 were enacted, even though the enactment was intended to maintain the then current level of duties. The increase results from the fact that methyl and ethyl parathion were included in a "basket" tariff provision for insecticides when the duties assessed on the American Selling Price (ASP) method of appraisement were converted to an equivalent ad valorem rate of duty.

THE INTENT OF CONGRESS: NO SUBSTANTIAL CHANGE IN THE AMOUNT OF DUTIES

Congress made it clear that the new United States rates of duty applicable to benzenoid chemicals and chemical products were intended to protect American industry to the same extent as it was protected under the "old" method of appraisement. The United States Congress expressly stated its intention with respect to the ASP conversions under Section 223(d) of the Trade Agreements Act of 1979:

"The . . . rates of duty . . . for merchandise currently subject to the ASP method of valuation . . . are designed to insure that U.S. industries producing the merchandise in question will receive protection . . . substantially equivalent to the protection they reveive from present rates of duty . . ." (Senate Report No. 96-249, "The Trade Agreements Act of 1979," 96th Cong., 1st Sess. 127 (1979)).

Thus, the "new" rates of duty were not intended to increase the amount of duties to be collected. Such a result was manifestly contrary to the purpose of the "Tokyo Round" of tariff reductions.

THE REASON FOR THE UNINTENDED INCREASE

Until 1979 imports of methyl and ethyl parathion were small or non-existent because of competitive conditions in the United States (where the domestically produced product was available at prices lower than the prices at which the imported product could be offered) and not because of the high duties generated by valuation on the basis of American Selling Price. However, because these products were "competitive," they were not separately enumerated for conversion purposes but were "pooled" with those pesticides which were imported. The equivalent ad valorem rates of duty for the pesticides actually imported were substantially higher than the rates which would have been applicable to methyl and ethyl parathion (i.e., 12.9 percent for methyl parathion and 15 percent for ethyl parathion, rather than the 20.1 percent rate which resulted from the conversion).

Competitive conditions in the United States have changed. There is now only one United States source of this vital element in the food chain. Considerations of safety require that the American formulators and farmers who purchase these important pesticides have an alternative source of supply. Cheminova of Denmark has attempted to fulfill this need and offer these products at competitive prices. However, the increased rates of duty are an unnecessary inflated cost to American consumers, while affording protection to the sole U.S. producer far in excess of that mandated by Congress.

CONCLUSION

The implementation of Section 223(d) of the Trade Agreements Act of 1979 has produced an unintentional, but very substantial, increase in the amounts of duty assessed on methyl and ethyl parathion.

This anomaly can be corrected by the provision *eo nomine* of ethyl and methyl parathion in TSUS item 408.24, as contemplated by H.R. 3649. We believe it is essential to have more than one source of supply. We strongly urge passage of H.R. 3649 to maintain competitive market conditions for American farmers and consumers alike.

MEMORANDUM
IN SUPPORT OF
H. R. 3649

To Correct an Anomaly in the Tariff Treatment of METHYL AND ETHYL PARATHION (TSUS ITEM 408.28)

On Behalf Of

TRANS CHEMIC INDUSTRIES, INC.
150 Meadowlands Parkway
Secaucus, New Jersey 07094

I. SUMMARY AND INTRODUCTION

This memorandum is submitted in support of H.R. 3649 which seeks to correct an anomaly in the tariff treatment of two pesticides, ethyl and methyl parathion, currently classified in item 408.28 of the Tariff Schedules of the United Statest ("TSUS"). The duties assessed on these pesticides were significantly increased when the valuation provisions of the Trade Agreements Act of 1979 were enacted, even though the enactment was intended to maintain the then current level of duties. The increase results from the fact that methyl and ethyl parathion were included in a "basket" tariff provision for insecticides when the duties assessed on the American Selling Price ("ASP") method of appraisement were converted to an equivalent ad valorem rate of duty.

This memorandum is submitted on behalf of Trans Chemic Industries, Inc. ("Trans Chemic") of Secaucus, New Jersey. Trans Chemic imports methyl parathion and ethyl parathion manufactured by A/S Cheminova ("Cheminova"), of Lemvig, Denmark and resells these chemicals to United States "formulators" of insecticides which, in turn, sell their products to end users.

II. BACKGROUND OF U.S. TARIFF CLASSIFICATION

Insecticides were provided by name for the first time in a Section 223(d) of the Trade Agreements Act of

1979, effective July 1, 1980, in a superior heading embracing items 408.24, 408.28 and 408.29. TSUS item 408.24 provides for the following specific insecticides:

> 1,2-Benzisothiazolin-3-one; N - (4-Chloro-o-tolyl)- N,N- dimethylformamidine; 1,1-Dichloro-2,2-bis (p-ethylphenyl) ethane; 0,0-Diethyl-S-[(6-chloro-2-oxo-Benzoxazolin-3-yl) methyl] phosphorodithioate (Phosalone); and 0,0-Dimethyl-0-(4-nitro-m-tolyl) phosphorothioate (Fenitrothion).

Of the other insecticides, those which are provided in the Chemical Appendix to the Tariff Schedules, including methyl and ethyl parathion, fall into TSUS item 408.28, while the remainder fall into item 408.29.

Prior to July 1, 1980, methyl parathion and ethyl parathion were classified under TSUS item 405.15. This tariff item provided for "pesticides" and embraced a statistical subdivision for "insecticides." The compound rate of duty applicable to "pesticides" (including "insecticides") classified under TSUS item 405.15 was 1.7 cents per pound plus 12.5% ad valorem.[1] For customs valuation purposes, the value was determined pursuant to Headnote 4, Schedule 4, Part 1 of the Tariff Schedules on the basis of American Selling Price since methyl and ethyl parathion were deemed "competitive" then.

---

[1] Under the Tariff Act of 1930, the ethyl and methyl parathion were assessed at 7 cents per pound plus 40% ad valorem (ASP) in the residual provision of Paragraph 27.

By 1963, as a consequence of interim trade agreements, the rate on pesticides was reduced to 3.5 cents per pound plus 25% ad valorem. At that time methyl and ethyl parathion became classifiable in Item 405.15, TSUS, which provided for all pesticides.

Beginning in 1968, as a consequence of the tariff concessions negotiated during the "Kennedy Round," the rate of duty applicable to TSUS Item 405.15 was reduced in stages to 1.7 cents per pound plus 12.5% ad valorem. This rate remained in effect until June 30, 1980.

Pursuant to Section 223(d) of the Trade Agreements Act of 1979 effective July 1, 1980, TSUS item 405.15 was eliminated and replaced with three "new" items: 408.24, 408.28 and 408.29. The new rate applicable to TSUS item 408.24 was 1.7 cents per pound _plus_ 12.8% _ad valorem_; the new rate applicable to item 408.28 (which covers ethyl and methyl parathion) was 1.7 cents per pound _plus_ 20.1% _ad valorem_ and the new rate applicable to item 408.29 was 12.5% _ad valorem_. The rates on items 408.24 and 408.28 will be reduced in stages until 1987, when the rate applicable to item 408.24 will be 6.9% _ad valorem_ and the rate applicable to item 408.28 will be 12.5% _ad valorem_.[2] For methyl parathion and ethyl parathion the result of the "conversion" was an increase of more than 53% in the amount of duty collected.

Trans Chemic attempted to have this inadvertent tariff increase corrected immediately, by alerting this Subcommittee in connection with its oversight hearings on

---

[2] On January 1, 1981 the first stage in the reductions took effect, so that the current rates are 12% _ad valorem_ for TSUS item 408.24 and 19.6% _ad valorem_ for TSUS item 408.28.

United States Trade Policy in July, 1980,[3] as well as notifying the Office of the United States Trade Representative, the United States International Trade Commission, the Royal Danish Embassy, the Danish Ministry of Finance and the Commission of the European Economic Communities (the "EEC"). Attached Exhibit A consists of copies of translations of correspondence from the Danish Foreign Ministry to Cheminova, which indicates that Trans Chemic and Cheminova's efforts to correct the problem administratively were to no avail since the United States negotiating authorities considered a request by the EEC for a tariff correction to be a request for a tariff concession, and thus an opportunity to demand further tariff concessions from the EEC. Attached Exhibit B consists of the prior response from the Chairman of the Subcommittee to the issue at that time. H.R. 3649 is, therefore, the last resort in a long and arduous effort to correct what amounted to a legislative and negotiating oversight.

III. THE REASON FOR THE INADVERTENT INCREASE IN DUTY

A. Background: The "American Selling Price"

Historically, the United States determined the dutiable "value" of methyl and ethyl parathion (and numerous other benzenoid chemicals) on the basis of the "American Selling Price." In brief, the American Selling Price was the price that an American producer "would have received or was willing to receive" from a United States customer.[4]

---

[3] Hearings Before the Subcommittee on Trade of the Committee on Ways and Means, House of Representatives, 96th Cong., 2nd Sess. 629 (Serial 96-119, June 26 and July 21, 1980).

Since the American Selling Price method of valuation was enacted to protect the "infant" American chemical industry from low priced imports, this method of valuation resulted in extremely high dutiable values and, therefore, high duties. A reverse effect was obtained when the imported product was offered at the same (or higher) price than the domestic product; such a situation existed in the case of ethyl and methyl parathion.

In response to requests by its principal trading partners during the "Tokyo Round" of tariff negotiations, the United States agreed to eiminate the American Selling Price basis of valuation and to substitute rates of duty which would produce revenues "substantially equivalent" to the amount of revenues collected under the American Selling Price method of valuation "during a recent representative year." The new rates of duty were first calculated by the United States International Trade Commission which used the year

---

[4] Section 402(e) or Section 402a(g), Tariff Act of 1930, as amended by the Customs Simplification Act of 1956, 70 Stat. 943, 946, 19 U.S.C. §§ 1401a(e), 1402(g)(1975), *repealed* Pub. L. 96-39, Title II, § 204(a)(2), 93 Stat. 203, Pres. Proc. 4768 effective July 1, 1980.

1976 as the "representative period"[5] and, thereafter, effectively determined by the Office of the Special Representative for Trade Negotiations.

B. The Intent of Congress: No Substantial Change in the Amount of Duties

Congress made it clear that the new United States rates of duty applicable to benzenoid chemicals and chemical products were intended to protect American industry to the same extent as it was protected under the "old" method of appraisement. The United States Congress expressly stated its intention:

> The *** rates of duty *** for merchandise currently subject to the ASP method of valuation *** are designed to insure that U.S. industries producing the merchandise in question will receive protection *** substantially equivalent to the protection they receive from present rates of duty ***.[6]

Thus, the "new" rates of duty were not intended to increase the amount of duties to be collected. Such a result was manifestly contrary to the purpose of the "Tokyo Round" of tariff reductions.

---

[5] Conversion of Specific and Compound Rates of Duty to Ad Valorem Rates, Report to the President on Investigation No. 332-99 under Section 332 of the Tariff Act of 1930, as amended, USITC Pub. 896 (July 1978).

[6] S. Rep. No. 96-249, "The Trade Agreements Act of 1979", 96th Cong., 1st Sess. 127 (1979).

C. The Actual Result: Substantial Increase In Amount Of Duties

As explained above, certain enumerated insecticides were to be classified under TSUS Item 408.24 with a new rate of duty of 1.7 cents per pound plus 12.8% ad valorem. For the enumerated products, this new rate gave American producers protection "substantially equivalent" to the protection existing under the earlier rates of duty.

On the other hand, the amount of duty to be collected on methyl and ethyl parathion under TSUS item 408.28 has increased significantly (by more than 53%).

Trans Chemic did not import methyl parathion until 1979. Data for 1979 reflects an ASP of $1.05 per pound and an invoice value of $1.01 per pound. When these amounts are used to compute the ad valorem equivalent rate of duty they yield a rate of duty of 1.7 cents per pound plus 12.9% ad valorem rather than the converted rate of 1.7 cents per pound plus 20.1% ad valorem.

Trans Chemic imported (in 1976) certain quantities of ethyl parathion. The data reflect an invoice value and American Selling Price ratio which yields an effective equivalent rate of duty of 1.7 cents per pound plus 15% ad valorem rather than the converted rate of 1.7 cents per pound plus 20.1% ad valorem.

D. The Reason for the Unintended Increase

Imports of methyl and ethyl parathion were small or non-existent because of competitive conditions in the United States (where the domestically produced product was available at prices lower than the prices at which the imported product could be offered) and not because of the high duties generated by valuation on the basis of American Selling Price. However, because these products were "competitive," they were not separately enumerated for conversion purposes but were "pooled" with those pesticides which were imported. The equivalent *ad valorem* rates of duty for the pesticides actually imported were substantially higher than the rate which would have been applicable to methyl and ethyl parathion (*i.e.*, no more than 15 percent).

Competitive conditions in the United States have changed. There is now only one source of supply in the United States for this vital element in the food chain. Considerations of safety require that the American formulators and farmers who purchase these important pesticides have an alternative source of supply. Although American purchasers are now looking for alternate sources of supply, the increased rates of duty are an unnecessary inflated cost to American consumers, while affording protection to the sole U.S. producer far in excess of that mandated by Congress.

IV CONCLUSION

The implementation of Section 223(d) of the Trade Agreements Act of 1979 has produced an unitentional, but very substantial, increase in the amounts of duty assessed on methyl and ethyl parathion. For the reasons discussed above, the resulting increase was not apparent to any representative of any government participating in the "Tokyo Round" of tariff negotiations. Because of the nature of the conversion process, the relationship among the "new" rates of duty, the value of the merchandise, and the "American Selling Price" was not available to the federal agencies responsible for the conversion.

This anomaly can be simply corrected by the provision eo nomine of ethyl and methyl parathion in TSUS item 408.24, as contemplated by H.R. 3649. The passage of this bill will maintain the rates of duty on these products as originally contemplated by Congress when it enacted the value provisions of the Trade Agreements Act of 1979.

Respectfully submitted,

TRANS CHEMIC INDUSTRIES, INC.

Of Counsel:

Freeman, Wasserman & Schneider
90 John Street
New York, New York 10038
(212) 619-1770

EXHIBIT A (1)

A/S CHEMINOVA
P. O. BOX 9
DK-7620 LEMVIG
DENMARK

PHONE (0[illegible] 41 00
CABLE: C[illegible]INOVA-LEMVIG
TELEX 66514
ANSWERBACK: CHEMV DK

A/S REG.NO. 17081
BANK: KJOBENHAVNS
HANDELSBANK A/S
COPENHAGEN

CHEMINOVA

KK

March 27, 1981

Translation of letter of March 26, 1981 from the
Danish Foreign Ministry, Copenhagen to Cheminova.

With reference to previous correspondance and telephone conversations with director Kier, latest on March 18, about the assessment of duty after July 1, 1980, of Cheminova's export articles, methyl and ethyl parathion, it is hereby confirmed that as well the embassy in Washington as the EEC Commission, after presenting the problem to the American authorities, must conclude that the Americans do not want to consider the request as a matter of correction of an inadvertent and erroneous effect of the re-classification of the American tariff persuant to the MTN-result. If the matter is followed up further, demands for a quid pro quo must be expected, which will be difficult to meet. However, the EEC Commission has promised to keep the matter in mind, if during the frequent negotiations with the U.S.A. a situation should come up, where the EEC should have a concession owing to them.

Furthermore, the EEC Commission has called attention to the U.S.A. having a possibility for a temporary suspension of duty, which would, however, call for approval by the Congress. At the same time, the embassy in Washington has been asked in concert with your lawyer, Mr. Schneider, to investigate whether a possibility should exist to achieve - without demands for a quid pro quo - a reduction of duty for the two products until the tariff reduction according to the GATT agreements come into full effect.

EXHIBIT A (2)

WUI GA

0954 12/19
TRADEJUR66165

665149 CHEMV DK NO. 6171 19TH DECEMBER, 1980 KK/AMO

ATT: MR. L. SCHNEIDER

BELOW YOU WILL FIND TRANSLATION OF A LETTER AND A TELEX WHICH WE HAVE RECEIVED FROM THE DANISH FOREIGN MINISTRY:

''REFERENCE IS MADE TO OUR PREVIOUS EXCHANGE OF LETTERS AND DISCUSSIONS ABOUT RE-TARIFFING OF THE INSECTICIDES ETHYL AND METHYL PARATHION. THE FOREIGN MINISTRY INCLUDES AN ABSTRACT COPY OF A TELEX FROM THE COMMON MARKET REPRESENTATION IN BRUSSELS WITH A REPORT OF THE NEGOTIATIONS BETWEEN THE COMMON MARKET AND THE AMERICAN AUTHORITIES ON THE ABOVE SUBJECT.

A COPY OF THE TELEX HAS FURTHER BEEN SENT TO THE EMBASSY IN WASHINGTON WITH INSTRUCTIONS TO PROCEED WITH THE CASE IN CONCERT WITH YOUR LAWYER AND THE REPRESENTATIVES OF THE COMMON MARKET COMMISSION IN WASHINGTON. IN THIS CONNECTION THE EMBASSY WILL, FIRST OF ALL, TRY TO FIND OUT WHEN THE PLANNED SUPPLEMENTING REVISION OF PENDING QUESTIONS IN CONNECTION WITH THE CARRYING INTO EFFECT OF THE ''TRADE ACT'' WILL TAKE PLACE.

THE FOREIGN MINISTRY WILL KEEP YOU INFORMED ABOUT THE DEVELOPMENT IN THIS MATTER.

RE-TARIFFING OF CERTAIN CHEMICAL PRODUCTS.

AS REQUESTED FROM DANISH SIDE, THE COMMISSION HAS TAKEN UP THIS CASE IN THE MARGIN OF HIGH LEVEL CONSULTATIONS, AS IT WAS CONSIDERED DIFFICULT AT PRESENT TO HAVE THE DESIRED RE-TARIFFING CARRIED THROUGH, THE TIME LIMIT FOR RAISING SUCH OBJECTIONS BEING OVERRUN. HOWEVER, DURING 1981 SUPPLEMENTING REVISIONS OF THE PENDING QUESTIONS IN CONNECTION WITH THE CARRYING INTO EFFECT OF THE TRADE ACT WILL BE CARRIED OUT FROM AMERICAN SIDE. IT WOULD BE MOST APPROPRIATE TO STATE THE DANISH DESIDERATA IN THIS CONNECTION, AS IT WOULD BE THE BEST WAY TO AVOID CLAIMS, IF ANY, FOR COMPENSATION FROM AMERICAN SIDE.''

REGARDS
A/S CHEMINOVA
SEC. TO MR. KIER

n
TRADEJUR66165

665149 CHEMV DK

EXHIBIT B

CHARLES A. VANIK, OHIO, CHAIRMAN
SUBCOMMITTEE ON TRADE

SAM M. GIBBONS, FLA.
DAN ROSTENKOWSKI, ILL.
JAMES R. JONES, OKLA.
JOSEPH L. FISHER, VA.
KEN HOLLAND, S.C.
ED JENKINS, GA.
THOMAS J. DOWNEY, N.Y.
WILLIAM R. COTTER, CONN.
RAYMOND F. LEDERER, PA.
FRANK J. GUARINI, N.J.
JAMES M. SHANNON, MASS.
AL ULLMAN, OREG.
MARTY RUSSO, ILL.

GUY VANDER JAGT, MICH.
BILL ARCHER, TEX.
BILL FRENZEL, MINN.
JAMES G. MARTIN, N.C.
L. A. (SKIP) BAFALIS, FLA.
RICHARD T. SCHULZE, PA.
W. HENSON MOORE, LA.

EX OFFICIO:
BARBER B. CONABLE, JR., N.Y.

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

SUBCOMMITTEE ON TRADE

NINETY-SIXTH CONGRESS

AL ULLMAN, OREG., CHAIRMAN
COMMITTEE ON WAYS AND MEANS

JOHN M. MARTIN, JR., CHIEF COUNSEL
J. P. BAKER, ASSISTANT CHIEF COUNSEL
JOHN K. MEAGHER, MINORITY COUNSEL

SUBCOMMITTEE STAFF
HAROLD T. LAMAR
DAVID B. ROHR
MARY JANE WIGNOT

December 9, 1980

Mr. Louis Schneider
Freeman, Meade, Wasserman
& Schneider
551 Fifth Avenue
New York, New York 10017

Dear Mr. Schneider:

I am responding to your letters of November 11 and 21 requesting that section 3 of H.R. 7942, which corrected various classifications and rates of duty applicable to certain chemicals, be amended to reduce the duties on methyl and ethyl parathion, sulfasalazine, and on tartaric acid and tartrates.

Section 3 of H.R. 7942 includes only changes in classification and rates of duty which were proposed by the Administration resulting from their consultations with U.S. foreign trading partners, and review of the chemical schedules by the U.S. International Trade Commission and the U.S. Customs Service. The main purpose of H.R. 7942 was to implement a Protocol to the MTN Agreement on Customs Valuation. The bill was subject to the same special expedited procedures under section 151 of the Trade Act of 1974 for Congressional consideration as applied to the MTN agreements themselves. Under those procedures no amendments are permitted to the bill once introduced, input from the Congressional committees involved taking place through consultations with the Administration prior to introduction.

The President announced on January 21, 1980 his intention to sign the Protocol. The Subcommittee on Trade held hearings on the Protocol on April 17, fulfilling the purpose of consultations between the Congress and the President on the terms of the Protocol and its implementation in domestic law. The Subcommittee held an informal "markup" of the draft implementing bill on April 29. The President submitted and the House and Senate leadership introduced H.R. 7942 on August 1, at which point the bill became unamendable. The Committee on Ways and Means reported it to the House on September 18, and the House and Senate passed it in mid-November. H.R. 7942 became Public Law 96-490 on December 2.

Changes in rates of duty such as you propose would require legislation. The Subcommittee holds hearings on such bills and also requires the views of the interested Executive branch agencies.

Sincerely yours,

Charles A. Vanik
Chairman

CAV:MJWj

APPENDIX I

U.S. House of Representatives
Committee on Agriculture
Subcommittee on Cotton, Rice, and Sugar
Room 1301, Longworth House Office Building
Washington, D.C. 20515

August 7, 1981

Honorable Sam M. Gibbons
Chairman
Subcommittee on Trade
Room 233 C.H.O.B.
Washington, D. C. 20515

Dear Mr. Chairman:

Since the Kerr-McGee Chemical Company went out of production of methyl parathion in 1980, Monsanto is the sole domestic producer of methyl parathion. The Cheminova Company of Denmark has supplied product to this market from time to time and would continue to offer advantageous pricing were it not for an increase in import duty that occurred July 1, 1980.

Your Subcommittee's report states that through error or inadvertence in the determination of the equivalent rate of duty for methyl and ethyl parathion an increase in the duty has been imposed on imports of these essential and widely used pesticides.

Congressman Hollenbeck has introduced a bill, H.R. 3649, which would correct this problem. I believe that it is in the best interest of farmers and consumers alike to have more than one source of these pesticides. I urge you to consider H.R. 3649 at the earliest possible date.

Sincerely,

David

David R. Bowen
Chairman

APPENDIX II

DELTA COUNCIL
STONEVILLE, MISSISSIPPI

June 5, 1981

Honorable David R. Bowen, M.C.
2421 Rayburn House Office Building
Washington, D. C. 20515

Dear David:

Since the Kerr-McGee Chemical Company went out of production of methyl parathion in 1980, Monsanto is the sole domestic producer of Methyl Parathion. The Cheminova Company of Denmark has supplied product to this market from time to time and would continue to offer advantageous pricing were it not for an increase in import duty that occurred July 1, 1980.

Prior to July 1, 1980, methyl parathion and ethyl parathion were classified under U. S. Tariff Schedules item 405.15. This tariff item provided for "pesticides" and embraced a statistical subdivision for "insecticides." The compound rate of duty applicable to "pesticides" (and "insecticides") classified under the Tariff Schedules of the United States (TSUS) item 405.15 was 1.7 cents per pound plus 12.5 percent ad valorem. For customs valuation purposes, the value was determined pursuant to the American Selling Price method of appraisment.

However, effective July 1, 1980, and pursuant to Section 223 (a) of the Trade Agreements Act of 1979, TSUS item 405.15 was eliminated and replaced with two "new" items: 408.24 and 408.28. The new rate applicable to TSUS item 408.24 (which covers certain insecticides listed by name and does not include methyl parathion and ethyl parathion) is 1.7 cents per pound plus 12.8% ad valorem; the new rate applicable to item 408.28 (which covers all other insecticides and includes methyl parathion and ethyl parathion) is 1.7 cents per pound plus 20% ad valorem.

The two products in issue (methyl parathion and ethyl parathion) will be classified under item 408.28 and will be assessed with an amount of duty almost 30 percent higher than the amount collected prior to July 1, 1980, under "old" item 405.15.

Enclosed you will find photocopy of pages 630 and 631 from U.S. Trade Policy hearings before the Subcommittee on Trade, House Ways and Means Committee, 96th Congress, second session, June 26 and July 21, 1980. Please note that Section IV (conclusion) states "The error or inadvertence in the determination of the equivalent rate of duty for methyl and ethyl paration is clearly an oversight of which this Committee should take cognizance."

We understand that Congressman Harold C. Hollenbeck of New Jersey introduced H.R. 3649 on May 20, 1981, to correct this problem. We believe you will agree that it would be in the best interest of agriculture for farmers to have more than one source of these pesticides and will appreciate it very much if you will use your influence to help correct what obviously is an error.

Methyl parathion is still an important insecticide in this area and action is needed to help maintain the lowest competitive price on this material.

With best personal regards,

Yours very truly,

BF
B. F. Smith
Executive Vice President

BFS/bd

Enclosure

APPENDIX III

[original submitted on letterhead of Cotton States Chemical Company, Monroe, Louisiana]

May 6, 1981

Honorable W. Henson Moore
Congress of the United States
House of Representatives
Washington, D. C. 20515

In re: Duties, Ethyl and Methyl Parathion,
House Ways and Means Committee

Dear Congressman:

As a formulator of pesticides, we find it helpful and, in fact, essential to have a second supplier. Demand for product, in this case parathion, can vary markedly depending on weather, insect pressure, etc. As a member of the House Ways and Means Committee, I urge you to help correct the problem of the inadvertent duty increase for TSUS (Tariff Schedules of the United States) Item 403.28 by virtue of the conversion from specific to ad valorem rates of duty on merchandise previously subject to the ASP method of customs valuation.

You can do this by supporting legislation which, I understand, Representative Hollenbeck of New Jersey will soon introduce.

Very truly yours,

C. A. Petrus
President

CAP/vf

Chairman GIBBONS. Are there any questions?

I am anxious to correct any mistake we made. I have no independent recollection of this. So I am just shooting in the dark. Please understand me.

Have you taken this up with the International—the USTR's office? What do they say about the mistake?

Ms. RING. When this problem first came to the attention of Cheminova after the enactment of the valuation provisions of the Trade Agreements Act, Cheminova and Trans Chemic approached the offices of the U.S. Trade Representative, the U.S. International Trade Commission, the Danish Embassy, the Danish Ministry of Finance, and the Commission of the European Economic Community.

Copies of correspondence were appended to our full statement.

Chairman GIBBONS. There are copies of correspondence there?

Ms. RING. Yes, sir. They are appended to our statement.

Chairman GIBBONS. Is there any correspondence back from USTR acknowledging an error? Did they just kind of sidestep it like——

Ms. RING. What we have here, sir, is a copy of a Telex from the Danish Ministry of Finance to our client indicating what the position of the negotiating authorities of the United States were, which they in turn had received from the EEC negotiating authorities.

The position of the USTR's office had been this would have been a unilateral tariff concession which would then open up a possibility for the EEC to demand a reciprocal—would be able to make reciprocal demands from the United States and that they wanted to use this as a bargaining chip in the next round of negotiations with the EEC.

Chairman GIBBONS. Let me get right back to my original question: Have you at any place in your search of this matter been able to get the USTR office to admit this was a mistake? You assert that it is a mistake. I do not doubt you; but what I would like is for some confirmation from our people that it was a mistake.

[The following was subsequently received:]

FREEMAN, WASSERMAN & SCHNEIDER
ATTORNEYS AND COUNSELLORS AT LAW
90 JOHN STREET
NEW YORK, NEW YORK 10038
(212) 619-1770
CABLE TRADEJURIS NEW YORK
TELEX 125902

MELVYN FREEMAN
JACK GUMPERT WASSERMAN
LOUIS SCHNEIDER
BERNARD J. BABB
JAMES H. BRACHMAN
DAVID M. COHEN

EUROPEAN OFFICE
RUE DU TACITURNE, 42
1040 BRUSSELS, BELGIUM
TELEPHONE 02-230-6608
TELEX (846) 61978

June 7, 1982

Hon. Sam M. Gibbons, Chairman
Subcommittee on Trade
Committee on Ways and Means
United States House of Representatives
Longworth House Office Building
Washington, D.C. 20515

H.R. 3649: Ethyl and Methyl Parathion

Dear Mr. Chairman:

During the hearings on the above bill on May 26, 1982 you requested that we provide the Subcommittee with some confirmation from the Office of the United States Trade Representative ("USTR") that the 50% increase in duties assessed on the pesticides ethyl and methyl parathion which resulted from the conversion to ad valorem equivalent rates from the American Selling Price basis of valuation was an unintentional duty increase.

As you are aware, the Administration (reflecting the position of the USTR as well as the other administrative agencies) has opposed passage of H.R. 3649 and other "tariff reducing bills" essentially on the ground that they are "unilateral tariff concessions" which should be saved for negotiation during the next round of trade negotiations. We have explained to the Subcommittee, on the other hand, that H.R. 3649 seeks to correct an inadvertent increase in duties which was contrary to the intent of Congress and the correction of which should not be considered a tariff concession.

The USTR has already publicly acknowledged in hearings before the Subcommittee that the legislation in the Trade Agreements Act of 1979 implementing the Customs Valuation Agreement needed technical corrections with respect to the converted rates of duty for many chemicals previously valued on the basis of American Selling Price. On April 17, 1980, the Assistant General Counsel of the Office of the USTR explained the background of several technical amendments to Title II of the Trade Agreements Act of 1979 which the Administration was proposing:

> ...Several of these changes will ensure that current rates of duty will not be increased on several "non-competitive" chemicals when the revised nomenclature contained in Section 223 of the Act enters into force....they represent what we would have done had the Trade Agreements Act of 1979 had the luxury of several months of technical review....*

---

* Certain Trade and Tariff Bills: Hearings Before the Subcommittee on Trade of the House Committee on Ways and Means, 96th Cong., 2d Sess. 231, 232 (March 17; April 17; and May 8, 1980, Serial 96-106) (Statement of Michael Hathaway, Asst. General Counsel, Office of the United States Trade Representative) (Emphasis added).

As we have explained to the Subcommittee, methyl parathion was not imported until 1979 (only small quantities of ethyl parathion had been imported) so that the potential duty increase resulting from the conversion was not immediately apparent. Since the Trade Agreements Act of 1979 was implemented on a "fast track," the increase was already enacted by the time our client felt its impact in the marketplace.

The United States International Trade Commission ("the Commission") was the agency which investigated the converted rates at the request of the USTR. Enclosed is a letter which we have sent to the Chairman of the United States International Trade Commission requesting that the Commission provide the Subcommittee with a brief explanation of the nature of the conversion process and how it happened that:

> ...inequities in effective duty levels [could be] brought about by the use of average unit values in the calculation of AVE's [Ad Valorem Equivalents]. Importers of relatively high-valued merchandise within a TSUS item would experience an increase in effective duty levels upon conversion to ad valorem rates--in some instances major increases.*

---

* Conversion of Specific and Compound Rates of Duty to Ad Valorem Rates, Report to the President on Investigation No. 332-99 under Section 332 of the Tariff Act of 1930, as Amended, USITC Pub 896 at 13 (July 1978).

Also enclosed is an excerpt from the MTN Studies prepared by the Subcommittee on International Trade of the Senate Finance Committee which explains more clearly why the converted rates from the American Selling Price could not yield precise results. Specifically, the Subcommittee's study explained:

> Although no converted rate of duty could be devised which would provide protection "equivalent" to that afforded by the ASP system, the converted raes of duty provide a substantially equivalent degree of protection on an overall basis for the domestic industries producing articles like or similar to those receiving ASP protection.

The Subcommittee further explained that:

> The converted rates represent the Commission's best efforts to determine rates of duty applicable to products subject to ASP valuation which, in the absence of the ASP system, would have provided an amount of revenue equivalent to that collected in a recent representative period on the basis of the ASP system. It should, however, be remembered that the degree of protection achieved by the converted rates will differ from the present level of protection since...the combination of various chemical compounds in "basket" classes necessarily involved balancing increases and decreases, of varying degree, in the equivalent converted rates of individual compounds (Emphasis added).

With respect to the parathions which H.R. 3649 addresses, we have explained that the duty increase not merely "differed from the level protection" but rather created a substantial (more than 50%) increase in the degree of protection provided under the ASP system.

While it is true that our trading partners agreed, for the most part, to the converted rates proposed by the USTR based on the Commission's study, our trading partners raised exception to "misconversions" only on products of which they were made aware. The ASP converted rates were based on the value of imports during 1976.* Since methyl parathion was not imported until 1979, and ethyl parathion was imported only in minimal quantities prior to 1979, our negotiating partners were unaware of the substantial duty increase which would apply to these products based on the rate proposed for the basket provision in which they were included. Even the margins of discrepancy which the conversion process allowed do not justify the significant duty increase which has applied to the parathions. Nor is such an increase justified when the imported product from Denmark is the only alternate source of supply to the American farmer in light of the monopoly which now exists in the United States.

---

* Conversion of Specific and Compound Rates of Duty to Ad Valorem Rates, USITC Pub. 896, *supra*, at 6.

We are prepared to supply the Subcommittee with any additional information which may be helpful to its understanding of H.R. 3649 and which may facilitate enactment of this legislation.

Respectfully,

Beth C. Ring
On Behalf of
Trans Chemic Industries, Inc.
150 Meadowlands Parkway
Secaucus, New Jersey 07094

Enclosure

FREEMAN, WASSERMAN & SCHNEIDER
ATTORNEYS AND COUNSELLORS AT LAW
90 JOHN STREET
NEW YORK, NEW YORK 10038
(212) 619-1770
CABLE TRADEJURIS NEW YORK
TELEX 125902

MELVYN FREEMAN
JACK GUMPERT WASSERMAN
LOUIS SCHNEIDER
BERNARD J. BASS
JAMES M BRACHMAN
DAVID M COHEN

EUROPEAN OFFICE
RUE DU TACITURNE, 42
1040 BRUSSELS, BELGIUM
TELEPHONE 02-230 6608
TELEX (846) 61975

June 4, 1982

Honorable Bill Alberger, Chairman
United States International Trade Commission
701 E Street, NW
Washington, D.C.

American Selling Price Converted Rates of Duty: Explanation to the Subcommittee on Trade, House Ways and Means Committee

Dear Mr. Chairman:

Enclosed is a Memorandum in support of a bill, H.R. 3649, which has been introduced to correct an error in the tariff treatment of ethyl and methyl parathion. These pesticides are currently classified under item 408.28 of the Tariff Schedules of the United States. The duties assessed on these pesticides were inadvertently increased by more than 50% when the valuation provisions of the Trade Agreements Act of 1979 were enacted (Section 223(d)) even though the enactment was intended to substantially maintain the then current level of duty assessment.

This increase resulted from the fact that methyl and ethyl parathion were included in a "basket" tariff provision for insecticides when the duties assessed on the American Selling Price method of appraisement were converted to ad valorem equivalent rates of duty. Because these pesticides were deemed "competitive," they were not broken out of the basket provision for purposes of the Commission's investigation pursuant to Section 223(d) of the Trade Agreements Act of 1979. (Inv. No. 332-106). However, until 1979 imports of methyl parathion were non-existent and imports of ethyl parathion were de minimus because the domestically produced product was available at prices lower than the prices which the imported product could be offered, and not because of the high duties generated by valuation on the basis of the American Selling Price. The ad valorem equivalent rate of duty for pesticides in the basket provision which actually were imported was substantially higher than the rate which would have been applicable to methyl and ethyl parathion, (that is, 12.9% for methyl parathion and 15% ethyl parathion, rather than the 20.1% which resulted from the conversion; see enclosed Memorandum, p. 7).

This result was contrary to purposes of the Tokyo Round of multilateral trade negotiations and the intent of the Congress in enacting the rates converted from the American Selling Price. Congress specifically stated that the conversions from the American Selling Price were

> ...designed to insure that U.S. industries producing the merchandise in question will receive protection...substantially equivalent to the protection

> they receive from the present rates of duty. S. Rep. No. 96-249, "The Trade Agreement Act of 1979," 96th Cong., 1st Sess. 127 (1979)

The new converted rates of duty were not intended to substantially increase the amount of duties to be collected. H.R. 3649 seeks to correct this error and to make the rate of duty assessed on methyl and ethyl parathion "substantially equivalent" to the rate which would have applied had these products been imported, or imported in meaningful quantities, during the period used to calculate the converted rates.

The administration opposes this bill basically on the grounds that it is opposing all "unilateral tariff reductions" at this time pending the next round of trade negotiations. However, this bill merely proposes to eliminate the inadvertent increase, rather than grant a new tariff concession. Further, the administration takes the position that imports of ethyl and methyl parathion "compete directly with domestic production". While there is domestic production of these products, there is only one domestic producer. Where there were formerly six producers, now there is only one monopolist with 96% of the market. There is no alternative source of supply of these pesticides for American farmers except imports from Denmark.

Hearings were conducted on this bill before the Subcommittee on Trade, House Ways and Means Committee on May 26, 1982 at which time Chairman Gibbons requested that we provide the Subcommittee with confirmation that the increase in duties on ethyl and methyl parathion was not an intentional increase but arose by virtue of the inclusion of these products in a basket provision encompassing many products which were converted to one *ad valorem* equivalent rate of duty for purposes of negotiating tariff reductions during the Tokyo Round. The Commission's staff has repeatedly acknowledged that the use of average unit values in the calculation of *ad valorem* equivalent rates of duty in some instances resulted in duty increases which could not be avoided except by calculating a separate *ad valorem* equivalent rate for each individual product in a basket provision.

We respectfully request that the Commission provide Chairman Gibbons with a brief explanation of the nature of the conversion process and how it happened that:

> ...inequities in effective duty levels [could be] brought about by the use of average unit values in the calculation of AVE's. Importers of relatively high-valued merchandise within a TSUS item would experience an increase in effective

> duty levels upon conversion to *ad valorem* rates -- in some instances major increases. *Conversion of Specific and Compound Rates of Duty to Ad Valorem Rates*, Report to the President on Investigation No. 332-99 Under Section 332 of the Tariff Act of 1930, as Amended, USITC Pub. 896 at 13 (July 1978).

The Ways and Means Committee has requested these comments by June 11, 1982. We appreciate your cooperation.

Respectfully submitted,

Beth C. Ring
On Behalf of
Trans Chemic Industries, Inc.
150 Meadowlands Parkway
Secaucus, New Jersey 07094

cc: Hon. Sam M. Gibbons

96th Congress } COMMITTEE PRINT { CP 96-27
1st Session }

MTN STUDIES

6

PART 2

Agreements Being Negotiated at the Multilateral Trade Negotiations in Geneva—U.S. International Trade Commission Investigation No. 332-101

Analysis of Nontariff Agreements
Customs Valuation Agreement
Agreement on Import Licensing Procedures

A Report Prepared at the Request of the
COMMITTEE ON FINANCE
UNITED STATES SENATE
Russell B. Long, *Chairman*

SUBCOMMITTEE ON INTERNATIONAL TRADE
Abraham Ribicoff, *Chairman*

AUGUST 1979

Printed for the use of the Committee on Finance

like or similar to, or competitive with, the imported article, regardless of the actual transaction value of the imported product. The result is a flexible, dynamic tariff system under which articles that are competitive with U.S. products may be assessed duties several times higher than those assessed on other articles classified in the same tariff provision, but for which there are no competitive U.S. products.

The articles currently subject to duty under the ASP bases of valuation are benzenoid chemicals, certain plastic- or rubber-soled footwear with fabric uppers, certain canned clams, and wool knit gloves and mittens valued not over $1.75 per dozen pairs.

Degree of equivalency of protection achieved by the converted rates (Pages 57 to 59).—Although no converted rates of duty could be devised which would provide protection "equivalent" to that afforded by the ASP system, the converted rates of duty provide a substantially equivalent degree of protection on an overall basis for the domestic industries producing articles like or similar to those currently receiving ASP protection.

A unique feature of the ASP system of valuation is that the appraised value is based on the American selling price of a competitive domestic product irrespective of the actual transaction value. Under conventional methods of valuation the appraisal is based on the transaction value or an approximation thereof. Thus, the ASP system in effect permits the U.S. producer to set the value on which his competitor's (the importer's) products will be appraised and gives to the domestic industry the opportunity to achieve a duty increase by merely going into competition with the imported product. In addition, the amount of duty collected automatically responds to price changes by U.S. producers. Contrary to conventional methods of valuation, under the ASP system a change in the export price by a foreign supplier has no effect on the duty. Any change to a basis of valuation other than the ASP system eliminates these key features and thus lessens the degree of protection.

The converted rates represent the Commission's best effort to determine rates of duty applicable to products subject to ASP valuation which, in the absence of the ASP system, would have provided an amount of revenue equivalent to that collected in a recent representative period on the basis of the ASP system. It should, however, be remembered that the degree of protection achieved by the converted rates will differ from the present level of protection since (1) no matter what base period is chosen, whether it be any 1 year or any series of years, no future period will ever be exactly the same, especially in the mix and unit prices of imports, and (2) the combination of various chemical compounds in "basket" classes necessarily involved balancing increases and decreases, of varying degree, in the equivalent converted rates of individual compounds.

Benzenoid chemicals (Pages 59 to 64).--The benzenoid chemicals and products subject to ASP provisions are certain cyclic organic chemicals and products having a benzenoid, quinoid, or modified benzenoid structure, as well as certain cyclic and acyclic chemicals and products which are obtained, derived, or manufactured in whole or in part from cyclic products having a benzenoid, quinoid, or modified benzenoid structure. Benzenoid chemical crudes, benzenoid elastomers, and most benzenoid chemicals produced from naturally occurring animal or vegetable products are not subject to the ASP provisions. Data on U.S. production and sales, domestic producers, employment, exports, and imports of benzenoid chemicals are contained in the body of this report.

Ms. RING. Mr. Chairman, the USTR's office has admitted, has recognized on many occasions that the conversions of the American selling price basis of valuation entailed broad-stroked negotiating tactics because of the nature of the basket provisions; that there were many products that had to be negotiated in one fell swoop, that unless a specific product was brought to the attention or could be recognized to create an error, it otherwise would have been swept up in a broad-based provision.

They have recognized that. They publicly testified to that on—in previous tariff hearings.

I believe the USTR's office has recognized this and would freely admit to the fact that there were certain chemicals that by reason of the fact that they were in basket provisions, they were either incorrectly converted or were misconverted.

I do not think there would be a problem in getting the USTR's office to accept that as a matter of fact.

Their position has been——

Chairman GIBBONS. That would help. That would be one of the factors in my consideration. If we could get them to admit there was an error. We do not want to punish anybody. If we made an agreement we made an agreement. We should not cover it up with an error. Anything you could do whether in your statement now or whether you want to submit evidence a little later on after you have had a chance to research it more, to pin down the error part of it, would be helpful.

I think you see what I am driving at there.

Let me ask you the next thing. You say there is only one company in the United States that makes this, and that is Monsanto. I know the use of parathion. It is widely used as an insecticide in agriculture. What is the duty on parathion now; 60-some percent?

Ms. RING. The present duty, I believe, is 19.6 percent. It might be slightly less. It has been staged. I believe it is approximately 19 percent right now.

Chairman GIBBONS. What we are talking about is a 19-percent advantage that Monsanto has over some other company; is that right? An offshore company?

Ms. RING. Yes, sir.

Mr. MILLER. Yes.

Chairman GIBBONS. I would imagine—you have a monopoly there. I would not want to put the price a monopolist would fix it. It is usually just below what the competition can meet. Then it is all over.

Has that happened in this case? In other words, are we able to import any competitive product in this country?

Mr. MILLER. Since Monsanto is the only producer, the other competitive producers—there were six producers at one time.

Chairman GIBBONS. They were U.S. producers? I am talking about foreign producers.

Mr. MILLER. The U.S. producers fell by the wayside because of competition. The only competition today in the United States is Cheminova versus Monsanto.

Chairman GIBBONS. We are importing parathions still?

Mr. MILLER. Yes, we are, sir.

Chairman **Gibbons**. They have a 19-percent barrier they have to jump over?

Mr. **Miller**. Sir, we are actually not asking for a reduction in the tariff or an abolishment of the tariff. The benzenoid selling price was beautiful for the domestic industry. The ASP value met the American selling price. What you have now is a duty that has gone up approximately 50 percent on a change from an American selling price to an ad valorem rate.

I cannot——

Chairman **Gibbons**. The duty was supposed to stand still, as I recall?

Mr. **Miller**. The intent of Congress was that it was supposed to stand still.

Chairman **Gibbons**. In the conversion from the American selling price to the other method of valuation, it was designed to bring everybody out at the same place they went in?

Mr. **Miller**. Yes.

Chairman **Gibbons**. It was just a matter of having a convenient measuring device as much as anything else? You say the price went up by——

Mr. **Miller**. Approximately 50 percent.

Chairman **Gibbons**. You cited a Senate report to that effect?

Ms. **Ring**. Yes, sir. I cited the Senate report on the Trade Agreements Act of 1979.

Chairman **Gibbons**. That is very interesting.

Thank you very much.

Our next bill is H.R. 4002 by Mr. Studds of Massachusetts.

Mr. Studds, we would be most happy to have you come forward. You are accompanied by the National Fisheries Institute, and the New Bedford Seafood Council. As I pointed out earlier this morning, Mr. Studds, the Florida fishermen also support your bill. I am familiar to some extent with the problems of the fishermen. I know, Mr. Studds, you have done an outstanding job in the Congress in representing the interests of fishermen and fish consumers in the country. I commend you for that.

You are probably the Congress leading expert on this matter.

STATEMENT OF HON. GERRY E. STUDDS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. **Studds**. Thank you for your kind words, Mr. Chairman. It is nice to appear before this committee on behalf of 193,000 people instead of one company.

There are roughly 193,000 commercial fishermen in the United States. If we have one more week like this, there will be 193,000 and one, because I will seriously consider joining them myself.

The legislation before you, Mr. Chairman, as you well know, has been introduced on a number of occasions in the past decade. As you possibly know better than any Member of the Congress, we have a substantial trade deficit of which an extraordinary proportion is directly attributable to the importation of fish products.

Our trade deficit in fish alone last year was $3 billion. The year before that, it was 10 percent of our entire balance of trade deficit.

That is a matter of some concern, it seems to me, far beyond those of us most directly concerned with the fisheries of this country.

The bill before you will enable our fishermen to compete a little more effectively with that flood of imported fish and help in some respects to alleviate that deficit. We propose, as you know, to accelerate tariff reductions which have already been agreed to by the United States.

Our fishermen are forced to compete on a daily basis with highly subsidized foreign fleets without any subsidy of their own, nor have they ever asked and are not asking now for a subsidy from the Government. They are also forced to pay higher tariffs on imported nets and gear than their foreign competitors are.

The average tax rate, given the ad valorem tariff plus the poundage fee, comes out to 42.5 percent on imported gear. These discrepancies provide yet another competitive advantage to those who are already doing so very well in competition with our fishermen.

There is, Mr. Chairman, although you may hear allegations to the contrary, no substantial U.S. interest in producing the kinds of gear about which we are most concerned. The fishermen whom I represent and many others buy from abroad notwithstanding the very high tariff which currently applies because the nets are better, better suited to their needs, and they last longer.

They would much prefer to buy American nets, but they are simply not available in the quality that are needed for the fisheries that are now going on.

We are importing roughly, as I undertand, one-third of the nets at this point which we use. My own district has the largest fishing port on the eastern coast of the United States, the port of New Bedford. A fisherman there spends about $15,000 a year on imported nets of which over $6,000 is in duties, which is a substantial sum. The duty on a single 50,000 pound purse seine net used by a commercial tuna vessel is over $77,000 in duty alone.

Chairman GIBBONS. The duty on one net?

Mr. STUDDS. That is a multimillion dollar tuna vessel. I do not represent any of those. I thought I would give you an idea of the scale involved.

Mr. Chairman, the cost of operating American fisheries has gone sky high for a variety of reasons as you know. You know what has happened to the cost of diesel fuel, all fuel for that matter; insurance rates; mortgage rates. They are squeezing our fishing industry into an increasingly intolerable position.

At the same time, the United States has negotiated reductions in U.S. tariff barriers on imported fish. Beyond that, we found a few more ways to sort of sock it to them in the past year or two. Last year, as you know, we took away from U.S. fishermen their historic two centuries old entitlement to public health care service with very little notice.

This year, the administration has pending before the Congress a proposition to impose user fees on beneficiaries of the Coast Guard which is, among other things, being interpreted as commercial fishermen. In some cases, these fees would be as high as $9,000.

Let me say to you as chairman of the Coast Guard Subcommittee, the administration will not have their way in this respect. Last summer, as an example of the effect of these cumulative burdens, the entire fishing fleet in the Port of New Bedford tied up for several weeks because it cost them more money to go fishing than to stay in port given the combination of everything else and the seasonal fluctuation in prices.

The bill before you will help stimulate this industry. There are approximately 1,000 people employed in the entire domestic net manufacturing industry. As I say, they are not for the most part selling to our folks in any event. There are according to the most recent statistics, 193,000 commercial fishermen and over 103,000 people involved in the processing of U.S. caught fish.

If the legislation before you became law, there would still be a 17-percent import duty on nets and gear which is an adequate protection for the domestic industry such as it is. The revenue loss to the Treasury is minimal.

Finally, Mr. Chairman, let me point out as you well know, fishermen are farmers. They happen to be farmers of the sea. They have not been treated as our land-based farmers have been by this Congress. Otherwise, they would probably be being paid by the taxpayers not to fish, the way we do things with land-based agriculture.

They have not asked for subsidies although their prices are subject to fluctuations as severe as the conventional land-based crops which we do support through price controls. They have not asked for subsidies notwithstanding the fact they are facing highly subsidized competition. They do ask for a modest lowering of the duties on nets which they must have to operate and which, therefore, are not putting in jeopardy American jobs with respect to the manufacturing of nets, because there is no comparable gear.

It seems to me, Mr. Chairman, a very small, modest request. I would urge the committee to grant it.

[The prepared statement follows:]

STATEMENT OF HON. GERRY E. STUDDS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. Chairman, thank you for this opportunity to address the Subcommittee in support of H.R. 4002, a proposal to accelerate the reduction of the tariff on certain fishing nets and netting to the final rate agreed upon by the United States in the Tokyo Round of the Multilateral Trade Negotiations. The fishing industry has pushed for similar legislation for the past eight years, and I hope that after you consider the following points you will agree with me that this bill deserves your support.

1. *Help Reduce Fisheries Trade Deficit.*—In 1981 our fisheries trade deficit increased by $300 million, reaching a record $3 billion. H.R. 4002 will enable American fishermen to compete with foreign fishermen and thereby help alleviate this tremendous deficit. To accomplish this the bill proposes only to accelerate tariff reductions already agreed to by the U.S.; it would not provide further tariff cuts. As you know, tariffs on imported cotton and vegetable fiber nets have already been reduced, and this legislation simply brings into parity the tariffs on all imported nets.

2. *More Competitive U.S. Fishing Industry.*—While our fishermen are forced to compete with highly subsidized foreign fishing fleets, they are also being forced to pay higher tariffs on their nets than their foreign counterparts (25 cents per lb. +32.5 percent ad valorem: average tax rate of 42.5 percent). Canada, which exports into the U.S. more than twice as much fish as any other country, has no duties on imported nets. The tariff duty on nets is also lower in the European Community, a major market for U.S. shrimp and salmon exports. Currently, the European Community is 13.5 percent and will decline to 11 percent in 1987. Such discrepancies provide our fishing industry's major competitors with a tremendous material cost advantage.

3. *No U.S. Manufacturing of Nets.*—Because the United States does not manufacture the quality or quantity of nets demanded by the industry, our commercial fish-

ermen depend on a wide variety of imported fish nets. The fishermen in my area tell me that the imported nets are lighter and more durable. These features translate into nets which have better catch rates and last longer. Today, we are importing over a third of the nets or netting used by our commercial fishing industry. Synthetic nets alone account for over 95 percent of these imports.

A typical New Bedford fisherman spends almost $15,000 a year on imported nets, and he must pay over $6,000 in duties. The duty on a single, 50,000 pound purse seine net used by our commercial tuna industry is over $77,000. The commercial fishermen will continue to depend on imported synthetic nets, and I believe the cost to import these nets is far more than the fishermen should be expected to pay.

4. *High Cost of Operation.*—Increasing operational costs (fuel, insurance rates, mortgage rates) and low priced imports are squeezing the fishing industry into an intolerable position. Recent figures from the Bureau of Labor Statistics indicate that since 1975, diesel fuel prices paid by our fishermen have increased almost 285 percent. At the same time, the U.S. has negotiated reductions in U.S. tariff barriers on fishery imports. Last session, this Congress took away from the fishermen their entitlement to public health care service, a cost the industry was forced to incur with very little notice. Additionally, the Coast Guard Subcommittee now has pending before it legislation that would impose user fees on fishermen for Coast Guard services. In some cases these fees would be as high as $9,000. Also pending before the Subcommittee is a proposal that would increase the cost of nautical charts from $4.50 per chart to well over $50 each.

Not long ago the entire New Bedford fishing fleet remained in port because our boats could not even meet expenses. A reduction in the duty on nets would greatly help the industry cope with its tenuous economic position.

5. *Jobs.*—Passage of H.R. 4002 will further help stimulate further development of the U.S. fishing industry. The high cost of fishing gear can seriously hamper the national effort to achieve the full development of our nation's fishery resources. As full development of these resources takes place, more jobs will be made available both on fishing vessels and in our shoreside processing facilities.

In an ITC memorandum submitted last October to this Committee, it was stated that total employment in the domestic net industry is estimated to be approximately 1,000 persons. The National Marine Fisheries Service reports that in 1981 there were 193,000 fishermen, in addition to over 103,000 people in the processing sector. Certainly, the benefits resulting from passage of this legislation far outweigh any potential damage which may occur to the domestic net manufacturers. As you know, there will still be a 17 percent duty on imported nets, which, in my view, is adequate protection for own manufacturers.

6. *Consistent With Administration Trade Policy.*—The thrust of this Administration's trade policy has been to further open world markets by reducing the number and level of barriers to international trade. Indeed, this Committee has encouraged free trade and the reduction of trade barriers. Present trade policy seeks to enforce competitiveness and encourage efficiency in our own industry by avoiding domestic trade restrictions that distort markets. Fish nets are not simply a textile product, but a vital tool of an industry struggling towards international competitiveness in U.S. and foreign markets. Support of H.R. 4002 is consistent with the basic principles of U.S. trade policy outlined in the White Paper issued last July.

In summary, Mr. Chairman, let me just observe that this bill is probably not considered by most to be a major legislative initiative. However, not the fishing industry, it represents a small cost savings, which is sorely needed at a time when the price of everything else is going up. The fishing industry has never wanted nor asked for fuel subsidies or price supports. If you take the estimated loss of revenue to the Treasury resulting from the enactment of H.R. 4002 ($5.741 million) and divide this by the number of commercial fishermen who could benefit from this legislation (193,000), you come up with a savings of exactly $4.25 per fishermen per year for the next seven years. I do not believe that this is asking too much.

Thank you.

Chairman GIBBONS. Any questions for Mr. Studds?

Let me ask you, I get the same complaints that you echo here from my fishermen. That they cannot buy the American nets; if they do, they do not hold up. Despite all of that, my fishermen somehow eek out a living and it is really rough.

What amazes me is I find my fishermen are exporting fish all over the world. I do not know how in the world they do it, because

I know our petroleum prices are high, as against Mexico and most of the nets come from Japan. Yet we sell fish to Japan.

I am disturbed by foreign subsidy of this. I think perhaps you and I ought to sit down and see what we can do about that.

Mr. **Studds.** I welcome that initiative. The situation is ironic, as you know, Mr. Chairman. Most of the fish purchased by the U.S. Armed Forces is imported. Most of the fish you find in the lunch programs of the pubic schools is imported. Everything you would buy at a McDonalds or similar chain is imported. I regret to tell you that the fish sandwich in the Members' cafeteria here across the street is Icelandic.

Chairman **Gibbons.** It is good, though.

Mr. **Studds.** No, it is not, Mr. Chairman.

Chairman **Gibbons.** It is better than most of the things that are on that menu.

Mr. **Studds.** I will buy that. Everything is relative.

Chairman **Gibbons.** I commend you for your deep interest in this problem. I will be happy to work with you.

Mr. **Studds.** I thank the Chairman.

Chairman **Gibbons.** I will support your bill here, too.

Mr. **Studds.** I appreciate that.

Chairman **Gibbons.** Thank you very much.

Would the rest of you like to be heard?

STATEMENT OF GUSTAVE FRITSCHIE, VICE PRESIDENT, GOVERNMENT RELATIONS, NATIONAL FISHERIES INSTITUTE

Mr. **Fritschie.** Yes, sir, I believe both myself on behalf of the National Fisheries Institute and Mr. Costakes would like to strongly support Mr. Studds' bill. If I could have just a few minutes of your time.

Chairman **Gibbons.** Go right ahead.

Mr. **Fritschie.** I am Gus Fritschie, vice president of government relations for the National Fisheries Institute. I represent approximately 1,200 member companies, most of whom are in the processing and distribution end of the business. You might ask why a processors' representative is here at this table. It is because we are directly impacted by the viability and the health of the fishing industry, the harvesters that provide the fish that is then processed and sold by the U.S. processing industry.

Certainly, costs for the domestic harvester have increased appreciably in recent years. The major cost increase, of course, has been the price of diesel fuel, but other overhead costs have gone up as well.

I just have several brief comments to make. One, I echo the support from the State of Florida. My membership includes the Southeastern Fisheries Association, which is headed by Bob Jones, the able executive director whom I know that you know.

Most of the major shrimp processing companies in the Tampa area are aware that to get a good quality shrimp product, they need domestic shrimp when it is available. They would like to be competitive and anything that can help the domestic shrimp processor would be helpful.

I am told a shrimp net costs about $5,000. Most of the boats in your area tow foreign nets. That works out to about $8,000 per fishboat. That is a significant cost. When the boats have had a hard time trying to make any profit, an $8,000 swing the other way would be significant.

No. 2, I would echo Mr. Studds' comment that there is no comparable U.S. product. I point to the fact that the tariff which has now been staged down to a 40-percent ad valorem was at a 42-percent ad valorem rate. Yet even with that degree of protection, we have not seen the domestic industry get into the type of nets that are needed either in the shrimp industry, in the New England ground fish fleet, or the Alaskan or west coast bottom fish fleets.

I would point out that in Alaska, a net costs approximately $100,000 for a major bottom fish vessel up there. You are talking about a $40,000 duty on that particular net. Certainly Mr. Studds' bill would reduce that duty more than in half. It might be an incentive to continue to reduce the present foreign catch in Alaskan waters which is over a million metric tons of fish per year.

The last point that I would like to make is that I think the bill is in concert with this administrations international trade policy. It is my understanding the Government of Japan in the near future will announce certain reductions on both tariff and nontariff trade barriers and agricultural and fishery items.

We were involved with the National Marine Fisheries Service in an advisory capacity on the fishery trade items. I think it would be good to signal to Japan that if they are willing to eliminate or decrease their trade barriers, that there is benefit from free trade by reducing the tariff barrier on trade nets.

So for all of those reasons on a national basis, on behalf of the processing industry, I urge the committee to adopt Mr. Studds' legislation.

Chairman **GIBBONS**. I appreciate the very frank way you have stated that.

[The prepared statement follows:]

STATEMENT OF GUSTAVE FRITSCHIE, VICE PRESIDENT, GOVERNMENT RELATIONS, NATIONAL FISHERIES INSTITUTE

Mr. Chairman, I am Gustave Fritschie, Vice President, Government Relations, of the National Fisheries Institute. The Institute is a national trade association representing more than 1,200 member companies which harvest, process and distribute fish and seafood products. I am pleased to have the opportunity to appear today and testify in support of H.R. 4002, which would reduce customs duty on the synthetic fiber fish nets and netting to a rate of 17 percent ad valorem. This legislation is responsive to the current economic situation in the seafood industry and to ongoing efforts by the industry and the government to accelerate development of the Alaskan groundfish industry. The reduction to a 17 percent ad valorem rate proposed in H.R. 4002 would, if passed, bring into effect immediately the phased in reduction agreed to by the United States in 1979 during the Multilateral Trade Negotiations. At the present time, the effective duty rate is approximately 40 percent ad valorem. It is scheduled to be reduced to 17 percent by 1989.

At the current time, the U.S. commercial fishing industry uses approximately $25 million worth of fish nets and nettings annually. According to statistics, usage of fish nets increased from 3.2 million pounds in 1970 to 6.3 million pounds in 1980. Even with the current high rate of duty, U.S. consumption of imported nets and nettings have increased through the 70's, but has declined in 1980 and 1981 to a level of 1,662,000 pounds due, in part we believe, to the current economic difficulties confronting the industry. According to comments from the industry, the level of imports is due to the quality of the monofilament webbing which is lighter and ensures exact mesh size. Another important reason for the level of imports is the lack of synthetic nets and netting production in the United States. Thus, the current high tariff is not providing protection for the U.S. net and netting industry since the industry does not produce a comparable product.

At the same time, this tariff imposes a significant financial burden on the United States fishing industry. According to statistics obtained from the National Marine Fisheries Service, initial costs for a net for a fishing vessel entering the Alaskan groundfish fishery is approximately $100,000. The passage of this legislation would reduce the tariff from $40,000 to $17,000. The resulting $23,000 in savings per vessel is significant particularly since all sectors of the fishing industry have been impacted by increased overhead costs, including diesel fuel prices. Other segments of the industry, including the East Coast groundfish fleet, the salmon fleet and the shrimp fleet, would include similar savings.

The Alaskan groundfish fishery is currently fished primarily by foreign nations, with more than one million metric tons of fish harvested in the fishery conservation off Alaska. A reduction in the tariff would complement congressional intent expressed in the American Fisheries Promotion Act and in pending amendments to the Magnuson Fishery Conservation and Management Act to provide for the development of fisheries which are currently underutilized by the United States industry, including bottomfish off Alaska.

I believe the domestic net and netting industry will still be protected if H.R. 4002 is adopted. The proposed 17 percent tariff is still quite high, the domestic net and netting industry is covered by the Multifibers Agreement and is afforded protection under statutes which regulate types of trade practices. In addition, the fishery laws of most coastal states do not permit the use of monofilament nets in state waters.

Finally, the Institute believes the proposed legislation is compatible with this nation's overall trade policy. In the seafood industry, we have been working aggressively with the Departments of State and Commerce to reduce or eliminate existing tariff and nontariff trade barriers to U.S. fishery products. It is my understanding that the government of Japan will shortly be announcing a reduction in trade barriers on various agricultural and fishery items. Adoption of this legislation would signal to the Japanese that there are benefits to be derived from free international trade.

In summary, Mr. Chairman, enactment of H.R. 4002 would: (1) result in an immediate cost savings of between $2,000 and $23,000 annually per vessel; (2) implement a duty reduction already agreed to in the 1979 Multilateral Trade Negotiations; (3) support U.S. initiatives to reduce foreign tariff and non-tariff trade barriers on U.S. fishery products; (4) maintain adequate protection for the domestic net and netting industry; and (5) recognize that the U.S. industry is not producing the monofilament nets and netting utilized in our salmon, shrimp and bottomfish fisheries. I urge your committee to support this legislation and thank you once again for the opportunity to testify.

STATEMENT OF JAMES COSTAKES, EXECUTIVE DIRECTOR, NEW BEDFORD SEAFOOD COUNCIL, ACCOMPANIED BY LEIF JACOBSEN, VESSEL OWNER AND EQUIPMENT SUPPLIER

Mr. **Costakes**. I am Jim Costakes. I have been involved in the fishing industry as a fisherman, a captain for over 35 years. I am the executive director of the New Bedford Seafood Council, and general manager of the Seafood Producers Association.

Before I begin, I would like to say Lucy Sloan from the National Federation of Fishermen cannot appear today. She asked me to submit her statement for the record in support of the bill.

The New Bedford Seafood Council represents over 150 vessels and 1,600 crewmen who fish out of the the port of New Bedford, Mass. In terms of the value of landings, New Bedford is the largest commercial fishing port on the east coast. We appear before your committee today in support of H.R. 4002, to reduce the tariff on imported fish nets of synthetic material.

In 1981 the tariff on imported fish nets was 25 cents per pound, plus 32.5 percent ad valorem. In 1982, the tariff was reduced to 21 cents per pound, plus 30.6 percent ad valorem. The effective rate of this compound tariff is approximately 35 to 40 percent. As a result of the MTN the tariff is scheduled to be reduced gradually over the next 7 years. In 1989 the tariff will reach a flat rate of 17 percent ad valorem.

H.R. 4002 would merely accelerate that schedule. It would reduce the tariff to 17 percent immediately.

The tariff on imported fish nets of 35 to 40 percent is extremely oppressive and should be reduced. This is an enormous trade barrier. From a public policy standpoint, no industry should be entitled to such protection. Even 17 percent is a high tariff barrier.

The situation is aggravated by the fact that fish products which are imported to the United States arrive duty free or at very low duties.

While imports of fish products enter this country duty free, the equipment necessary for the fishermen to catch the fish bears a very high tariff. This presents a contradiction in policy.

Mr. Chairman, we seek some consistency in the tariff policy of this Government toward fishermen. We are being unfairly treated at both ends of the spectrum in that the products we compete with have very low tariffs and the products we need to harvest fish have very high tariffs.

H.R. 4002 would make the current situation more equitable in that it would move the tariff schedule immediately to the 17-percent figure. A 17-percent tariff is certainly sufficient protection for any domestic industry.

To give the committee an idea of the impact of the tariff on fishermen, let me give you an example. A fisherman in New Bedford will employ approximately 8 to 12 crewmen. Throughout the year he will spend approximately $15,000 per year on fish nets. Should he buy foreign-made fish nets, approximately $5,000 of that $15,000 will be spent to pay the import tariff.

The domestically produced fish nets and netting are of lesser quality than the foreign-made product. As a general rule, fishermen have found that the foreign-made product is superior to the domestic product. It lasts longer and maintains its quality longer. A fisherman cannot afford to use a net that allows fish to escape.

There are also several types of nets that are not manufactured in the United States.

In New Bedford several fishermen have begun to use a fish net made of polyethylene. The attraction of the polyethylene net is that it floats. Nets made of nylon will sink when they become wet. The floating net reduces the likelihood of damaging the net on objects on the bottom of the ocean. And I can elaborate a little bit about the difference between nylon mesh twine and polyethylene.

As you are well aware, at the FCMA we had a lot of constraints and regulations with mesh size regulations. You are aware that the mesh size regulation right now is a 5⅛-inch mesh. A nylon net in the water after a few days, the sand creeps into the twine and shrinks the twine up.

If you come in with a twine that is lower than 5⅛ inch you get a severe penalty. As high as in some cases, $5,000 and $10,000 and $20,000 fines, so that we feel is one of the reasons why we have been making a changeover to polyethylene because it has a plastic coating under it and doesn't allow the sand to get into the mesh.

Not only that, the manufacturer of these machine-made nets, I think they dip them into some sort of solutions to keep them from stretching.

We have been unable to find any domestic manufacturer of polythylene nets of the quality we require. Most of the polyethylene nets we purchase come from Portugal. We must pay the 35-percent tariff on a product that is not manufactured in the United States.

In costing out the revenue loss of this tariff reduction, it has been determined by the International Trade Commission that the loss would only be a total of $5.74 million if this bill had taken effect in January 1982.

This is a very small amount to the U.S. Treasury, whereas, to the individual fisherman this is a very large amount of money. Most fishermen are small businesses. Their vessel is the extent of their production capabilities. A 35- to 40-percent tariff works a very unfair burden on the independent fisherman.

The unilateral reduction of this tariff by the United States will not seriously jeopardize our country's negotiating posture at this time. The tariff is scheduled to be phased down gradually until it reaches 17 percent in 1989.

In that the reduction is scheduled to go to 17 percent at a future date nothing additional is being given away by this legislation. We do not seek to undermine the U.S. negotiators in this field. We do seek to alleviate an unfair situation.

A trade policy that provides a 35–40 percent protective tariff is extremely oppressive to those who require the imported product.

The domestic industry would not be unduly harmed by moving to a 17-percent tariff immediately. Seventeen percent is still a substantial amount of protection. Few U.S. industries enjoy a protective tariff that large. The domestic net industry is rather small. It employs a total of approximately 1,500 workers.

The manufacture of fish nets is only a part of their operation. In comparison, there are approximately 180,000 fishermen in the United States. A great majority use nets.

Mr. Chairman, the American fishermen receive very little in Government aid. We receive no special tax breaks or subsidies. We only ask for a chance to harvest the fish, sell the fish at a reasonable price and to continue to do our job.

We feel that to continue a policy that adopts a 35- to 40-percent tariff on products that we need to do our job is extremely unfair, especially when one considers that the fish products coming in from Canada and other countries come in virtually duty free.

Not only do these products come in duty free, but the fishermen from those countries receive significant subsidies and governmental assistance in harvesting their catch.

A 35- to 40-percent protective tariff is not reasonable. The burden should be on the domestic industry to justify such a high tariff. We ask that this committee give the fisherman the chance to do his job in a very competitive industry.

On the investigation of the facts, I am sure this committee will find that a tariff of 35 to 40 percent is unjustifiable.

We ask this committee to support H.R. 4002 and adopt a more consistent tariff policy toward the domestic fishing industry.

Thank you for the opportunity to appear before you and present our views. We will be glad to answer any questions the committee may have.

Chairman GIBBONS. Are there other statements to be made? Would you like to make a statement, sir?

Mr. JACOBSEN. No, Mr. Chairman, my name is Leif Jacobsen, and I was a fisherman for many years. Many of the New Bedford fishermen for fish nets and netting import polyethylene nets from Portugal, Korea, and England. My primary source is Portugal. I will get right to the point.

I have not been able to purchase the polyethylene nets from a domestic source. The import tariff is 25 to 40 percent on the fish nets. This is a very high protective tariff. It costs the fisherman thousands of dollars a year.

Second, approximately 80 percent of the fish caught in the fish industry is imported through the United States. This product enters the U.S. market virtually duty free and Canada subsidizes this fishing industry.

The American fisherman, especially the New England fishermen, must sell their catch in competition with this subsidized duty free product.

The tariff has the U.S. fishermen in a vise. On one side the fish products he must compete with enters the U.S. market duty free. On the other side he must pay a duty of 30 percent to purchase the equipment he needs to earn a living.

H.R. 4002 will offer some relief from the squeeze the American fisherman is in.

A 35- to 40-percent tariff is unjustifiable. A 17 percent is plenty of protection. We ask the committee to make sure that the U.S. tariff policy treats the fishermen in a consistent manner.

If the policy favors tariff barriers, let us have some protection, too. If the policy is in the direction of free trade, which it appears to be, then this burdensome tariff barrier should be reduced.

I thank you for the opportunity of testifying and I will be glad to answer any questions that you may have.

Thank you.

Chairman GIBBONS. Thank you, sir.

Are there questions for the panel?

[No response.]

Chairman GIBBONS. You all made fine statements. I appreciate it. I know this is not a new struggle. I hope we can resolve the question this time. Thank you very much.

Mr. COSTAKES. Thank you.

Chairman GIBBONS. Our next witness on this subject is from the American Netting Manufacturers Association and then after their testimony the chair is going to skip over and hear Mr. Edwards of Alabama because I realize he has to get back to the floor because of the debate.

Mr. INCE. Mr. Chairman, my name is Mr. Ince and in order to save time I have asked Mr. Amore of the Nylon Net Co. to orally summarize the statement that has been submitted by himself and Mr. Losea.

Chairman GIBBONS. Fine, you may proceed as you wish. I don't want to cut you off.

Mr. INCE. Thank you.

STATEMENT OF JOSEPH R. AMORE, VICE PRESIDENT, SALES AND MARKETING, NYLON NET CO., MEMPHIS, TENN., ON BEHALF OF THE AMERICAN NETTING MANUFACTURERS ORGANIZATION, ACCOMPANIED BY HOWARD C. LOSEA, PRESIDENT, BROWNELL & CO., MOODUS, CONN., AND WILLIAM K. INCE, COUNSEL

Mr. AMORE. Good afternoon, Mr. Chairman, and members of the committee.

The 12-member companies that comprise the American Netting Manufacturers Organization [ANMO] produce approximately 90 percent of all fish netting manufactured in the United States.

H.R. 4002 would immediately reduce the tariff on imported fish netting and nets of man-made fibers (virtually the only type of commercial fish netting used today), from 36 percent ad valorem equivalent to 17 percent ad valorem.

This 55 percent reduction in tariff protection was negotiated in the recent "Tokyo round". As is true for virtually all negotiated tariff reductions, the fish netting tariff reduction is staged over 8 years.

The purpose of staging tariff reductions over a period of years is to allow the U.S. industry affected by the consequent loss of tariff protection the opportunity to adjust gradually to the expected increase in foreign competition.

The U.S. fish netting industry has been particularly hard hit by import competition—mainly from the Far East. For this reason, ANMO opposes the early and immediate reduction called for by this bill.

Imports of fish netting and nets of man-made fiber have consistently amountd to between one-quarter and one-third of consumption. The U.S. netting industry currently suffers from close to a 30 percent import penetration, at a time when demand is extremely low.

Three Far East countries: Japan, South Korea, and Taiwan have consistently accounted for the great bulk of the imports, and Japan is the dominant supplier, accounting for 55 to 70 percent of the total imports.

Import competition, substantial as it is, has not always been fair. In 1972, ANMO was successful in proving that Japanese fish netting was being dumped in this country. However, due to lax enforcement of the antidumping finding, until recently Japanese imports have been largely unaffected by the imposition of dumping sites.

In the face of severe import competition, the U.S. industry is struggling to improve its competitive position. Two examples will demonstrate their efforts.

For many years the domestic industry was excluded from the lucrative salmon gill netting market because the special yarn required to produce competitive gill netting was not available from U.S. synthetic yarn manufacturers, and the Japanese yarn producers would only sell the yarn to U.S. netting producers when demand for gill netting was weak.

Recently, however, the Nylon Net Co. of Memphis, Tenn., has persuaded the Firestone Fibers and Textiles Division to produce a yarn specifically for salmon gill netting.

Nylon Net Co. has made substantial capital investment in machinery, equipment, and technology to make use of the new yarn.

The example of the salmon gill netting yarn development follows by not more than a year another joint development project undertaken by Firestone & Nylon Net Co. to develop a special yarn for use in making tuna netting.

These are the kinds of efforts that the staged reduction in tariff allow; if the tariff were to be cut in one step, as H.R. 4002 would dictate, the resulting import surge would so devastate and demoralize this struggling industry that many of its members would not survive.

If this bill were to be enacted, the resulting sudden reduction in tariff would be of no benefit to U.S. fishing interests. The fishermen would see no lowering of prices to them for foreign netting.

The foreign manufacturer, or the U.S. importer would reap the windfall profit that would result from such a reduction.

This has happened in Canada which has no duty on netting and where Canadian fishermen pay generally the same price for Far Eastern netting that their U.S. counterparts on this side of the border pay.

U.S. netting manufacturers are typically small, closely held concerns. Far Eastern textile industries benefit greatly from vertical integration.

The Japanese netting industry, for example, has 10 times the U.S. production capacity. Without adequate tariff protection, the U.S. industry cannot survive. If there is no viable U.S. netting industry, the U.S. fishermen would then be entirely at the mercy of foreign netting manufacturers, who can then raise prices at will, unrestricted by either domestic competition or the U.S. antitrust laws.

The U.S. fish netting industry opposes this bill because the bill would immediately telescope staged reductions in the tariff on imported fish netting and nets of man-made fiber, and thus deprive the industry from needed protection while it attempts to adjust to already severe import penetration.

[The prepared statement follows:]

STATEMENT OF HOWARD C. LOSEA, PRESIDENT, BROWNELL & CO. INC., AND JOSEPH R. AMORE, VICE PRESIDENT, SALES AND MARKETING, NYLON NET CO., ON BEHALF OF THE AMERICAN NETTING MANUFACTURERS ORGANIZATION

SUMMARY

1. H.R. 4002 would immediately reduce the tariff on imported netting and nets of man-made fibers from 36 percent to 17 percent ad valorem. This reduction has already been negotiated and is scheduled to go into effect in stages over an eight-year period. An immediate reduction would seriously hinder the U.S. netting industry in its attempt to adjust to import competition and depressed market conditions.
2. Imports, mainly from the Far East, amount to almost 30 percent of U.S. consumption.
3. There is a history of dumping of fish netting by Japan, the largest supplier of netting to the United States.
4. Large segments of the market—notably tuna netting—have been lost to the domestic industry because of tariff loopholes.

5. The U.S. netting industry is making demonstrable efforts to improve its competitive position vis-a-vis imports: at least two new types of yarn have been developed in the past two years.

6. A reduction in the tariff on fish netting would likely not be passed on in savings to the U.S. fishermen. There is no Canadian tariff, and the price paid for imported netting by Canadian fishermen is the same as that paid by U.S. fishermen.

7. An immediate reduction in the tariff on fish netting and nets would demoralize and devastate a struggling U.S. industry.

INTRODUCTION

The 12 member companies that comprise the American Netting Manufacturers Organization (ANMO) produce approximately 90 percent of all fish netting manufactured in the United States. ANMO members are located throughout the United States (see Appendix A).

H.R. 4002 would immediately reduce the tariff on imported fish netting and nets of man-made fibers (virtually the only type of commerical fish netting used today), from 36 percent ad valorem equivalent to 17 percent ad valorem. This 55 percent reduction in tariff protection was negotiated in the recent "Tokyo Round" of Multilateral Trade Negotiations. As is true for virtually all negotiated tariff reductions, the fish netting tariff reduction is staged over eight years; for textiles the staging started in January 1, 1982, with the final reduction to 17 percent ad valorem scheduled to go into effect in 1989. Thus, one of the staged reductions has already occurred.

The purpose of staging tariff reductions over a period of years is to allow the U.S. industry affected by the consequent loss of tariff protection the opportunity to adjust gradually to the expected increase in foreign competition. Reductions in textile tariffs generally were scheduled to commence later than other tariff reductions, in recognition of the fact that the U.S. textile industry has been particularly import-sensitive.

The U.S. fish netting industry is no exception; it has been particularly hard hit by import competition—mainly from the Far East—and in a variety of ways, as detailed below. For this reason, ANMO opposes the early and immediate reduction called for in H.R. 4002.

IMPORT COMPETITION

Imports of fish netting and nets of man-made fiber have consistently amounted to between one-quarter and one-third of consumption. Appendix B shows such imports by source for the most recent five years. Appendix C compares imports with domestic production and consumption. The U.S. netting industry currently suffers from close to a 30 percent import penetration, at a time when demand is extremely low.

Three Far East countries—Japan, South Korea and China (T)—have consistently accounted for the great bulk of the imports, more than three quarters in the years 1977-1981. Japan is the dominant supplier, accounting for 55 to 70 percent of the total imports.

DUMPED IMPORTS

Import competition, substantial as it is, has not always been fair. In 1972, ANMO was successful in proving that Japanese fish netting was being dumped in this country. However, due to lax enforcement of the antidumping finding, until recently Japanese imports have been largely unaffected by the imposition of dumping duties. With the stiffening in enforcement of the finding, significant dumping duties are about to be imposed (see Appendix D). Since the majority of Japenses netting is of a type called doubleknot salmon gill netting, there was a recent attempt to overturn the dumping finding as to this type of netting. The attempt was unsuccessful at the administrative stage since the U.S. International Trade Commission determined that the U.S. industry would be materially injured if the finding were modified. However, the determination is being appealed to the U.S. Court of International Trade.

OFF-SHORE PURCHASING

Other developments have contributed to a reduction in the market for U.S. fish netting.

For many years a tariff loophole permitted the U.S. tuna fleet to purchase nets and netting in the Panama Canal Zone without paying duty when they returned to home (U.S.) port. This market—estimated at about $3 million annually—was entirely lost to foreign netting. Although that loophole was closed when the Zone became part of the Republic of Panama, a significant (and growing) segment of the U.S. tuna fleet is now operating in the western Pacific, where it can continue to purchase duty-free netting.

In addition, there are an increasing number of joint ventures between U.S. and foreign fishermen, where the catches are delivered to foreign-owned processing vessels on the high seas, and often party paid for in foreign made nets and netting, without payment of U.S. duty.

EFFORTS TO COMPETE WITH IMPORTS

In the face of severe import competition, the U.S. industry is struggling to improve its competitive position. Two examples will demonstrate their efforts.

For many years the domestic industry was excluded from the lucrative salmon gill netting market because the special yarn required to produce competitive gill netting was not available from U.S. synthetic yarn manufacturers, and the Japanese yarn producers would only sell the yarn to U.S. netting producers when demand for gill netting was weak. Recently, however, the Nylon Net Co. of Memphis, Tennessee, has persuaded the Firestone Fibers and Textiles Division to produce a yarn jointly developed by Nylon Net and Firestone specifically for salmon gill netting. Firestone has the capacity and the commitment to provide a continuous and dependable supply of this yarn in commercial quantities to the U.S. fish netting industry. In reliance, Nylon Net Co. has made substantial capital investment in machinery, equipment and technology to make use of the new yarn.

The example of the salmon gill netting yarn development follows by not more than a year another joint development project undertaken by Firestone and Nylon Net Co. When the tariff loophole for tuna netting was closed, the U.S. netting industry and the U.S. tuna fishing industry, in a unique instance of cooperation between U.S. suppliers and their potential customers, agreed that the tuna fleet would be allowed to continue purchasing duty-free foreign netting for a period of time during which the U.S. netting industry would develop and produce acceptable tuna netting. At the end of the period, the tuna fleet would start to buy from U.S. netting producers. This agreement was embodied in special legislation, passed by Congress in 1979. In response to the challenge to develop and produce acceptable tuna netting, Nylon Net and Firestone first developed a special yarn for use in making tuna netting. The venture was successful, and the resulting netting has been tested on U.S. tuna vessels and found to be acceptable, or even preferable to foreign netting.

These are the kinds of efforts that the staged reduction in tariff allow; if the tariff were to be cut in one step, as H.R. 4002 would dictate, the resulting import surge would so devestate and demoralize this struggling industry that many of its members would not survive.

NO ADVANTAGE TO U.S. FISHERMEN

If H.R. 4002 were to be enacted, the resulting sudden reduction in tariff would be of no benefit to U.S. fishing interests, the intended beneficiaries of the measure. The fishermen would see no lowering of prices to them for foreign netting. The foreign manufactuer or exporter, or the U.S. importer or distributor would reap the windfall profit that would result from such a reduction. We need only look north of the border to Canada for proof of this phenomenon. Canada bound the tariff on fish netting imports at zero years ago. Since then, and currently, there has been no significant production of fish netting in Canada. As a result, Canadian fishermen pay the same price for Far Eastern netting that their U.S. counterparts on this side of the border pay.

The Canadian example has another lesson for the U.S. fishermen. Without tariff protection, the Canadian netting industry has been unable to survive competition from the Far East. The same thing could easily happen here. U.S. netting manufacturers are typically small, closely-held concerns. There are few conglomerates with the resources or desire to make the kind of capital investment necessary to compete against the monolithic Far Eastern textile industries who benefit greatly from vertical integration. The Japanese netting industry, for example, has 10 times the U.S. production capacity—a Goliath compared with our David. Without adequate tariff protection, the U.S. industry cannot survive. If there is no viable U.S. netting industry, the U.S. fishermen would then be entirely at the mercy of foreign netting manufacturers, who can then raise prices at will, unrestricted by either domestic competition or the U.S. antitrust laws.

The demise of the U.S. netting industry would also have serious implications for the nation's defense. Several of ANMO's members manufacture netting to be used for camouflage purposes. This netting would have to be supplied from foreign sources, which in time of war could well be difficult or impossible.

CONCLUSION

The U.S. fish netting industry opposes H.R. 4002 because the bill would immediately telescope staged reductions in the tariff on imported fish netting and nets of man-made fiber, and thus deprive the industry from needed protection while it attempts to adjust to already severe import penetration.

APPENDIX A - PAGE 1

4/82

American Netting Manufacturers Organization Members

Bayside Net and Twine Company, Inc.
P.O. Box 3160
Brownsville, TX 78520

Blue Mountain Industries
Blue Mountain, AL 36201

Brownell and Co., Inc.
Moodus, CT 06469

Carron Net Company, Inc.
1623 Seventeen Street
Two Rivers, WI 54241

FNT Industries
927 First Street
Menominee, MI 49858

Hagin Frith & Sons Company
Wyandotte Road
Willow Grove, PA 19090

Harbor Net and Twine Company, Inc.
1010 J Street
Hoquiam, WA 98550

Koring Brothers, Inc.
2050 West 16th Street
Long Beach, CA 90813

Mid Lakes Mnaufacturing Co.
P.O. Box 5320
Knoxville, TN 37918

Nylon Net Company
7 Vance Avenue
Memphis, TN 38101

Northwest Net & Twines, Inc.
1064 East Pole Road
Everson, WA 98247

First Washington Net Factory, Inc.
P.O. Box 310
Blaine, WA 98230

APPENDIX B

U.S. IMPORTS FOR CONSUMPTION OF FISH NETTING OF MANMADE FIBER, BY COUNTRY

1977 - 1981

(Quantity in Pounds)

Country	1977	1978	1979	1980	1981
Australia	0	0	0	0	0
Belgium	375	2,107	2,392	10,055	7,705
Canada	45,065	92,733	129,712	126,547	140,424
China (M)	0	0	0	0	13,673
China (T)	115,079	130,914	79,566	122,401	276,644
Denmark	7,896	20,709	21,857	28,749	23,821
Finland	0	0	22	381	0
Germany	0	0	2,740	13,040	0
Hong Kong	0	1,479	1,132	1,168	265
Iceland	0	772	2,776	752	824
Ireland	0	0	0	2,128	0
Italy	0	0	176	4	0
Japan	955,061	1,196,064	1,611,403	1,127,359	813,897
Korean Rep.	235,431	202,627	179,127	297,842	98,458
Mexico	28,003	44,552	37,530	16,396	0
Netherlands	894	1,360	430	6,953	1,411
Norway	2,000	175	440	18,182	529
Panama	26,356	14,517	0	800	5,546
Peru	0	0	36,290	0	582
Philippine Rep.	0	8,000	26,283	9,750	18,733
Portugal	20,524	52,801	96,976	99,885	27,067
Romania	0	0	0	0	0
Spain	0	0	7,330	36,009	30,260
Sri Lanka	1,119	0	0	0	0
Sweden	0	882	40	0	669
Thailand	1,857	12,283	25,684	22,232	1,461
Trinidad	0	0	0	0	0
United Kingdom	13,526	37,989	48,179	106,104	39,135
Total	1,453,186	1,821,984	2,315,127 1/	2,046,737	1,501,104

1/ Includes 4,452 pounds imported from France and 590 pounds imported from Indonesia.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Williams & Ince
May 1982

APPENDIX C

Fish Netting and Fish Nets of Man-made Fiber: U.S. Shipments, Imports for Consumption, Total U.S. Exports, Apparent Consumption, and Ratio of Imports to Apparent Consumption, 1977-1981.

Year	U.S. Shipments	Imports for Consumption	U.S. 1/ Exports	Apparent Consumption	Ratio Imports to Apparent Consumption
			Quantity (1,000 lbs.)		(Percent)
1977	4,393	1,453	2/	5,846	24.9
1978	4,950	1,822	227	6,545	27.8
1979	5,567	2,315	199	7,683	30.1
1980	4,419	2,047	271	6,195	33.0
1981	4,365	1,501	359	5,507	27.3
			Value ($1,000)		
1977	11,598	4,483	2/	16,081	27.9
1978	13,582	6,302	405	19,479	32.4
1979	16,690	9,225	476	25,439	36.3
1980	14,301	7,237	774	20,764	34.9
1981	14,541	5,771	843	20,312	28.4

1/ Export Classificaiton includes fish netting and fish nets of textile materials.

2/ Not separately reported.

Source: U.S. shipments are estimated total shipments based on compiled data furnished by ANMO members, imports and exports compiled from official statistics of U.S. Department of Commerce.

Williams & Ince
1620 Eye Street, N.W.
Washington, D.C.

DEPARTMENT OF COMMERCE

International Trade Administration

Ferrochrome From the Republic of South Africa

AGENCY: International Trade Administration, Commerce.

ACTION: Amendment to Notice of Countervailing Duty Order.

SUMMARY: This notice is to advise the public that the Department of Commerce is amending the "Notice of countervailing duty order" on ferrochrome from the Republic of South Africa to include ferrochrome currently classifiable under item number 923.18 of the Tariff Schedules of the United States (TSUS)."

EFFECTIVE DATE: March 11, 1981.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black, Office of Compliance, Room 1128, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1774)

SUPPLEMENTARY INFORMATION: The Department of Commerce published a notice of countervailing duty order in the Federal Register2 on April 9, 1981 (46 FR 21155). Although the order covered all ferrochrome exported from the Republic of South Africa the notice only cited ferrochrome currently classifiable under item number 606.22 and 606.24 of the Tariff Schedules of the United States (TSUS). Ferrochrome currently classifiable under item number 923.18 of the TSUS was inadvertently omitted. Accordingly, we hereby amend our notice by adding 923.18 to the list of TSUS item numbers under which ferrochrome is currently classificable.

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 81-13011 Filed 5-4-81; 8:45 am]

BILLING CODE 3510-25-M

Fish Netting of Manmade Fibers From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on fish netting of manmade fibers from Japan. The scope of the review covers 21 manufacturers and 25 other exporters of this merchandise to the United States. The review covers varying time periods for manufacturers and exporters through May 31, 1980. This review indicates the existence of dumping margins in particular periods for certain manufacturers and exporters.

As a result of this review, for the one exporter with sales activity that provided adequate information, the Department has preliminarily determined to assess dumping duties equal to the calculated difference between United States price and foreign market value on each of its shipments occurring during the covered periods. Where company-supplied information was inadequate or no information was received, the Department has used the best information available. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 5, 1981.

FOR FURTHER INFORMATION CONTACT: Harry A. Patrick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3813).

SUPPLEMENTARY INFORMATION:

Procedural Background

On June 9, 1972, a dumping finding with respect to fish netting of manmade fibers from Japan was published in the Federal Register as Treasury Decision 72-156 (37 FR 11560). On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. Title I replaced the provisions of the Antidumping Act of 1921 ("the 1921 Act") with a new title VII to the Tariff Act of 1930 ("the Tariff Act"). On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the Federal Register of March 28, 1980 (45 FR 20511-20512) a notice of intent to conduct administrative reviews of all outstanding dumping findings. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the finding on fish netting of manmade fibers from Japan. The substantive provisions of the 1921 Act and the appropriate Customs Service Regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by this review are shipments of fish netting of manmade fibers, currently classifiable under items 355.4520 and 355.4530 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of a total of 65 Japanese firms engaged in the manufacture and exportation of fish netting of manmade fibers to the United States. This review covers 46 of them (21 manufacturers and 25 non-manufacturing exporters) for all time periods through May 31, 1980, during which shipments of fish netting of manmade fibers may have been made to the United States, and for which appraisement instructions ("master lists") have not been issued. Therefore, different time periods are involved for different firms. The remaining firms were discovered late in the review and will be covered in a subsequent review.

The issue of the Department's obligation to conduct administrative review of entries, unliquidated as of January 1, 1980 and covered by previously issued master lists, is under review. Liquidation has been suspended pending disposition of the issue.

Seven exporters stated that they did not export fish netting of manmade fibers to the U.S. during the periods of review. Three non-manufacturing exporters, whose suppliers failed to respond, sold only to the United States during the latest period. The estimated deposit rate for these firms shall be based on the most recent information for each firm, or the highest current rate for responding firms. One firm with sales activity furnished an adequate response.

Thirty-five firms refused to respond or provided inadequate responses to our questionnaire. For these non-responsive exporters we proceeded to use the best information available. The best information available is the current rate for the one responding firm, which is 23.3 percent, except for Hakodate, for which we used its most recent master list rate of 38.27%.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act or section 203 of the 1921 Act, as appropriate. Purchase price was based on the CIF, packed price to unrelated purchasers in the United States. Where applicable, deductions were made for ocean freight, marine insurance and shipping charges. No other adjustments were claimed or made.

Foreign Market Value

In calculating foreign market value, since there were no sales by the firm in the home market of such or similar merchandise, the Department used the price to purchasers in a third country (Canada), as defined in section 773 of the Tariff Act or section 205 of the 1921 Act, as appropriate. Foreign market value was based on the CIF, packed price with deductions, where applicable, for ocean freight, marine insurance and shipping charges.

Although adjustments were claimed for interest expenses and a commission, no supporting documentation was furnished and they were disallowed. No other adjustments were claimed or made.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value we preliminarily determine that the following margins exist:

Mfr./exporter	Time period	Margin (percent)
Amikan Fishing Net Mfg. Co., Ltd	12/1/76-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Amano Kabushiki Kaisha, Ltd	6/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Amita Company, Ltd	4/1/76-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.2
Ara Gomu K.K.	6/1/71-5/31/80	[1] 23.3
Fukuda Shoten	6/1/71-5/31/80	[1] 23.3
Fukui Fishing Net Co., Ltd	4/1/78-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Hakodate Seimo Sengu Co., Ltd	10/1/76-5/31/80	38.27
Hakodate Seimo Sengu Co., Ltd/Mitsui & Co., Ltd	9/1/76-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Hirage Fishing Net Mfg. Co., Ltd	6/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Hirage Fishing Net Mfg. Co., Ltd/Sanyo Enterprises Co., Ltd	6/1/71-12/31/74	11.00
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.2
Hirage Fishing Net Mfg. Co., Ltd/Yamada Trading Co., Ltd	1/1/77-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Hirata Spinning Co., Ltd	4/1/78-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Hirata Spinning Co., Ltd/Nichimen Co., Ltd	4/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-3/31/80	23.3
Hirose Tanucho Shoten	6/1/71-5/31/80	[1] 23.3
Ikosen K.K.	6/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Inagaki Fishing Net Mfg. Co., Ltd	9/1/76-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Inagaki Fishing Net Mfg. Co., Ltd/Nichimen Co., Ltd	9/1/76-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Itoh-Seni Mfg. Co., Ltd	6/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Itoh-Seni Mfg. Co., Ltd/Yamada Trading Co., Ltd	1/1/77-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Kasumi Fishing Net Mfg. Co., Ltd	6/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Kasumi Fishing Net Mfg. Co., Ltd/Sanyo Enterprises Co., Ltd	6/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Kataoka Seimo Co., Ltd	9/1/76-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Kataoka Seimo Co., Ltd/Harunku Seimo Co., Ltd	6/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Kataoka Seimo Co., Ltd/K.Y. Corp	6/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Kinoshita Fishing Net Mfg. Co., Ltd	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Kinoshita Fishing Net Mfg. Co., Ltd/Nissho Iwai Corp.	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Miyo Seimo Co., Ltd	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Miyo Seimo Co., Ltd/Nishimen Co., Ltd	7/1/73-5/31/80	[1] 23.3
Momoi Fishing Net Mfg. Co., Ltd	9/1/76-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Moritaun Shoten	6/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Monnen Co., Ltd	5/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Morishita Fishing Net Mfg. Co., Ltd	6/1/73-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Morishita Fishing Net Mfg. Co., Ltd/Mitsui & Co., Ltd	9/1/76-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Nagaura Seimosho Co., Ltd	5/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Nichimo Co., Ltd	8/1/76-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Nippon Kenmo Co., Ltd	1/1/77-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Nitto Seimo Co., Ltd	4/1/76-5/31/80	[1] 0

Mfr./exporter	Time period	Margin (percent)
Ogura Trading Co., Ltd	9/1/76-5/31/80	[1]23.3
Ohmi Netting Co., Ltd	9/1/76-3/31/79	23.3
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Ohmi Netting Co., Ltd./Mitsui & Co., Ltd	9/1/76-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Osada Fishing Net Co., Ltd	9/1/76-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Osada Fishing Net Co., Ltd./Nichimen Co., Ltd	6/1/76-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Taito Seimo Co., Ltd	9/1/76-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Tesmete Co	8/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Toyama Fishing Net Mfg. Co., Ltd	4/1/76-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Toyonen Co., Ltd	4/1/76-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Watanabe Chosen Shoten	9/1/76-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Yagi Fishing Net Co., Ltd	8/1/71-5/31/80	[1]23.3
Yamap Fishing Net Co., Ltd	2/1/76-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Wako Bussan K.K.	8/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Hashimoto	8/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Makino	8/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Yamagami	8/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3

[1] No shipments during period.

Interested parties may submit written comments on these preliminary results on or before June 4, 1981 and may request disclosure and/or a hearing on or before May 20, 1981. Any request for an administrative protective order must be made no later than May 11, 1981. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all entries made with purchase dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

Further, as required by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the most recent of the margins calculated above shall be required on all shipments of fish netting of manmade fibers entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

April 30, 1981.

[FR Doc. 81-13512 Filed 5-4-81; 8:45 am]

BILLING CODE 3510-25-M

Chairman GIBBONS. If you have got severe import penetration at a 40-percent ad valorem tariff, how are you ever going to survive 17?

Mr. AMORE. Mr. Gibbons, my company, specifically Nylon Net, as well as other companies, but I would rather zero in on my own company, has in the last year made significant investments in new equipment, more modern equipment.

We have just installed what is called a heat set depth stretch machine specifically to process polyethylene netting which you have been hearing alot about.

I would also like to refute the fact that there is no polyethylene netting being bought from U.S. manufacturers.

My own company, in particular, has sold over 100,000 pounds in the last year so it cannot be solely a quality problem.

These same people that are buying from us could import the netting even in some cases with this high duty at a lesser price and yet they continue to buy domestically so that it doesn't quite all add up.

Chairman GIBBONS. Well, let me ask you: A net is essentially a collection of yarn that is essentially a petroleum base product and for years we had the cheapest petroleum in the world. A set of floats and a set of sinkers or leads and it is made on a machine.

Why haven't we been able to compete?

Mr. AMORE. Mr. Gibbons, I think in many areas we have been able to compete.

Chairman GIBBONS. It seems you ought to have a monopoly. Anybody who can't have a monopoly with a 40-percent tariff, I don't know what you are doing. You add 40 percent ad valorem to the price of a net and it looks like to me you had so much protection you just got lazy.

Mr. AMORE. Well, Mr. Gibbons——

Chairman GIBBONS. The poor fisherman is out there trying to pull fish against somebody else that pays 40 percent less for his nets. Nets are a big part of the fisherman's business expense.

Mr. AMORE. Well, I would like to address that, sir.

You have to look at each fishery and in the majority of the fisheries in the United States, nets are not a significant portion of their expense. Now, there are some fisheries, you have one in your State, the Gill Net Fishery, that it is.

But you also have a shrimp fishery in your State where nets are a very, very small portion of their overall expense and in addressing that, you talk to your shrimp fishermen in your State and you will find that generally they will not have an imported net or a net made out of imported netting.

My company is currently servicing two major fleets out of your State. The boats themselves are based in South America. They could buy the netting at significantly less price and yet they are buying from me, from a domestic producer.

Chairman GIBBONS. That is Sahlman and who else?

Mr. AMORE. Versaggi.

Chairman GIBBONS. Well, as I say, you heard those New Bedford fishermen up here. They say nets are a substantial part of their business.

What is your answer to that? They say they can't buy polyethylene nets.

Mr. LOSEA. Mr. Chairman, my name is Howard Losea with Brownell Co. I have to differ with the gentleman that said the nets were not available. We are selling polyethylene nets in New Bedford right now.

Mr. AMORE. And so is our company.

Mr. BAILEY. Could I just ask a question at that point?

I want you to know that when I was approached on this issue I was told that polyurathane or polyethylene, whatever the hydrocarbon is, nets were not available at all in this country.

You say they are produced in this country and you sell them?

Mr. AMORE. There are several. I can think of four or five domestic companies currently that are making the polyethylene nettings.

I think what might need to be brought out here is that the large use of polyethylene netting, particularly braided polyethylene netting as opposed to twisted polyethylene netting is a relatively new product.

It has come on very strongly just in the last 1½ to 2 years, in high volumes.

Mr. BAILEY. Well, I will come back to my question. I just wanted to get that straight. I will come back later and ask my questions.

Chairman GIBBONS. Any other questions?

Mr. AMORE. I have a few other comments, some of them mentioned the name of Bob Jones at Southeastern Fisheries.

Now, although I have nothing in writing from Mr. Jones and I fully expect to talk to him this week or next week, I did talk to Mr. Jones about 6 weeks ago about this very matter. And not speaking for the Southeastern Fisheries Association, but for himself, at that point he was in full support of our stand on this and he was going to take it to the Association to see if they wanted to take a stand one way or the other.

Chairman GIBBONS. I have a message here from Mr. Gary Sansom who represents the Organized Fishermen of Florida. And he called yesterday and he said that he supported this bill.

Are you familar with this gentleman?

Mr. AMORE. No, sir; I am not. I am fmailiar with the organization. I am not familiar with him and I can understand some of his support of this bill because of the type of fishery he is in.

Chairman GIBBONS. What type of fishery is he in?

Mr. AMORE. In gill netting. That organization is primarily made up of gill net fishermen, where the Southeastern Fishery Association is primarily made up of the shrimping fishermen.

Chairman GIBBONS. I have got to tell you my sympathies are with the fishermen and while I haven't heard from all my fishermen down there, I would hate to put a heavier burden on them than they already have.

Mr. AMORE. Well, Mr. Gibbons, let me point out to you that our company is currently pursuing the manufacture of the specific netting that your fisherman is talking about which is a single strand of monofilament nylon gill netting.

You must understand that there are so many different fisheries in this country and that for manufacturers—you heard about the polyethylene netting in New Bedford, you are hearing about the monofilament nylon down in your area, there is a salmon gill netting up in the northwest—and for us to develop it, we can't develop it all overnight but our company has made specific commitments, dollar commitments, to develop the products that the fishermen want.

But you have to realize that Japan has been dumping monofilament nylon netting into the United States for many years and this is a matter of record which obviously inhibits us investing money into this market and we recognize we are faced with the reduction of duty over the next 8 years and we intend to adjust. But we need the time to adjust.

Chairman **Gibbons**. How long have you all had the 40-percent duty?

Mr. **Ince**. Mr. Chairman, I am not sure of that. I do know that the duty was not reduced in the previous Kennedy Round. Before that I have no knowledge.

Chairman **Gibbons**. It probably goes back to the Smoot-Hawley tariff. It was at least 40 percent or higher.

Mr. **Losea**. Mr. Chairman, the 40 percent quickly diminishes when you compare the cost of making the netting in this country to Japan. They operate in a vertical monopoly over there from the produce of the pellets for the nylon right down to the steamships to bring it over here.

They only have to have one profit out of it and they still get by, whereas, we buy through the standard sources of supply for nylon or polyethylene or whatever the raw material might be.

And when you are talking about the raw material costs in netting, it is a major part. Between the raw material costs and the fact that it is a capital heavy industry and, incidentally, all the equipment to make the fish netting comes from Japan also. All of the netting machines currently used in this country that are anywhere near efficient are made in Japan and, lo and behold, they are made by some of the major companies who send the netting over here. They make the machinery also.

So the 40 percent, if you look at it realistically, gets down to a reasonable figure, I think. Labor rates, also.

We have had Japanese engineers come over to adjust our machines and they would be very eager to come to work in the United States when they compare the labor rates.

Chairman **Gibbons**. Well, thank you very much.

Do you have questions, Mr. Bailey?

Mr. **Bailey**. We have a vote on, Mr. Chairman. I did want to ask some questions. Do we have other bills we are going to come back for?

Chairman **Gibbons**. Yes, sir.

Mr. **Bailey**. Maybe if we could come back I could spend just a couple of minutes.

Chairman **Gibbons**. Do you mind waiting for Mr. Bailey? We have to go over and vote. We will come back.

[Brief recess.]

Mr. **Bailey**. The main contention appears to be currently nylon netting and then polyethylene netting which floats, I guess.

The issue is that it floats and for purposes like gill netting, et cetera, it is easier to weight it and keep it vertical in the water and that is what makes it attractive for certain uses, an attractive material.

Mr. **Amore**. If I can stop you for a second, there are many types of materials used in fish netting. There is multifilament nylon which is what the shrimpers basically use.

Mr. **Bailey**. And you make that, don't you?

Mr. **Amore**. Yes.

Mr. **Bailey**. And I understand that countries like Portugal have come out, and Japan, on some of the other types?

Mr. **Amore**. Now from Portugal, primarily they are speaking of polyethylene netting and primarily of braided construction. The twine is braided rather than twisted and it is for specific fisheries of tracking or trawling or midwater trawling, bottom trawling.

Mr. **Bailey**. Let me ask these specific questions, then, because here is where I was apparently misled. You do produce polyethylene, it wouldn't be polyurathane?

Mr. **Amore**. No.

Mr. **Bailey**. You do produce polyethylene and you do sell it.

Mr. **Amore**. Yes.

Mr. **Bailey**. Only in this country or do you sell it elsewhere in the world?

Mr. **Amore**. Primarily in this country but we have made some small sales in other countries.

Mr. **Bailey**. You mentioned that figure of 100,000 pounds. How significant is that figure?

Mr. **Amore**. Well of our own company's production that represents 6 or 7 percent of our overall volume.

Mr. **Bailey**. Six or seven percent?

Mr. **Amore**. Yes.

Mr. **Bailey**. Are there any other American producers of polyethylene?

Mr. **Amore**. Yes, there are.

Mr. **Bailey**. Well, I want you to know I was misled about that also. How many others are there, do you know?

Mr. **Amore**. Well, Mr. Losea's company, Brownell manufacturers it. There are two companies in the State of Washington, Washington Net, and Northwest Net and Twine Co. Fish Net and Twine Co. of Michigan.

Mr. **Bailey**. Any Canadian producers at all?

Mr. **Amore**. Yes, in fact, there is a company in New Bedford that is a Canadian company called IMP, that actually produces polyethylene netting both in New Bedford and in Canada.

Mr. **Bailey**. You mentioned dumping, Japanese dumping. Are the Japanese dumping polyethylene netting?

Mr. **Amore**. I have no figures to that effect at this time.

Mr. **Bailey**. Are they dumping nylon netting?

Mr. **Amore**. Yes.

Mr. **Bailey**. Basically you sell nylon netting, is that right?

Mr. **Amore**. As things stand today; yes, sir. You try to go with what the market demands. Nylon is still the predominant yarn for all fisheries combined in the United States.

Mr. **Bailey**. Well, that is what you sell, basically, that was my original question.

Mr. **Amore**. Right.

Mr. **Bailey**. And apparently 90 *percent of your product is nylon* or 80-some percent?

Mr. **Amore**. I would say close to 90 percent.

Mr. **Bailey**. Do you sell any of that abroad?

Mr. **Amore**. Yes, some.

Mr. **Bailey**. What percentage do you sell domestically?

Mr. **Amore**. Oh, maybe a percent or two abroad and the rest domestically.

Mr. **Bailey**. You say the Japanese have been dumping?

Mr. **Amore**. Yes.

Mr. **Bailey**. Have you ever filed any cases or had attorneys?

Mr. **Amore**. Yes, we have a standing dumping case that was won in 1972, I believe, and was recently reaffirmed, by the way.

Mr. **Bailey**. And it was recently reaffirmed that they are dumping today?

Mr. **Amore**. Yes.

Mr. **Bailey**. Well, I tell you what I think. I think in this country we have no concept of what we are up against tradewise. We are just naive little folks who have not yet awakened to some real aspects of international business that I think we had better wake up to.

I don't know if the solution is maintenance or elimination of these duties. I really don't think they have solved many problems, incidentally.

Mr. **Amore**. Well, Mr. Bailey, if I could point out along that line of thinking, I think we must remember availability of product as a factor.

For example, many of the fisheries or all the fisheries are controlled by one agency or another and when it comes to fisheries using netting, many of the specifications of the netting are controlled by Government agencies.

Many, many times in the 11th hour and 59th minute the agency has changed the specifications.

Mr. **Bailey**. Why?

Mr. **Amore**. Well, the shrimp industry is an easy one to talk about. If they feel that there is a very low population and a very immature population, et cetera, and they don't want the shrimpers to take too many shrimp they will require that they use a larger hole size in their net.

But a lot of these determinations are not made until just shortly before a season is to open. So elimination of a domestic industry is——

Mr. **Bailey**. I would be totally opposed to elimination of the domestic industry. I just think as a country we are naively thinking we are still just running the world and as we slowly wake up and learn to come to grips with these things. You folks are just one more example of somebody who exists in the market and who is a victim of this Nation's inability to segregate trade policy and economic policy and military policy and diplomatic policy in the great American back-slapping naivity that we have followed for many years, I guess.

I don't know. I was misled about it, I must say that to you.

And, second, I don't agree that it is good policy to allow the Japanese to simply walk off with the thing because it will be a short period of time before those prices will be right back up there nice and expensive just like Sony television.

Mr. AMORE. Well, a specific example that I would like to give you in the tuna industry, the domestic market about 1½ or 2 years ago, in San Diego the tuna fishermen were buying replacement panels which—a tuna fisherman only buys a complete net once, basically in his whole life, and then the panels are replaced.

When we entered that market they were buying foreign-produced netting at approximately $4.65 a pound. They are currently paying in that market, around $3.65 a pound for either foreign-produced netting or domestic-produced netting.

So I am underscoring the fact that without domestic competition the fisherman is not going to benefit like he thinks he is.

Mr. BAILEY. We will probably, as a Nation, go through a cycle of these things. Unfortunately, it may not be soon enough to save people like yourself.

I, incidentally, hope that it will be. We will wake up and understand that in doing international business and with the change in the world's economy and with investment changes and financing issues and currency changes, we will get a little brighter and we will find that free enterprise has a different definition.

Unfortunately, my friend, you just appear to be on the cusp and I hope we wake up to some of these things because I guarantee you, those fishermen will be paying for the netting.

The only thing that is going to happen is the American fisherman is going to be paying three or four or five times the price for that netting what some Japanese concern will and that is just a few years off in the future, I am sure. Sorry about that.

Chairman GIBBONS. On the position of the Southeastern Fisheries Association, while they are not present here today we do have a letter dated December 4, 1981, received in our committee on December 22, 1981, endorsing both the Senate bill and this bill.

Mr. AMORE. Signed by Mr. Jones?

Chairman GIBBONS. Signed by Bob Jones, executive director.

Mr. AMORE. Well, my discussion with Mr. Jones was just, say, within the last 60 or 90 days and if I may quote one part of his conversation he says, "My members are screaming for duties and quotas, et cetera, on their products. I don't see why they would, in turn, not want to support you."

And that was almost a direct quote from Mr. Jones.

Mr. BAILEY. Mr. Chairman, if I may, that is precisely the problem that we have in this country. If the world were an ideal free trade situation and if free enterprise meant the same thing and investment opportunities meant the same thing and financing costs were the same, world function of government were the same, it would be a great world for American businessmen to do business.

In that ideal situation the ninth grade term called comparative advantage would have some meaning, but it doesn't have any meaning.

All that happens here is some American, secondary distributor or manufacturer comes running here and says, I can't buy the same quality and sufficient quantities of this material that I need, so the hell with the American manufacturing base, we do away with it and a few years later after they think they have done themselves a favor for 1 year or 2 when they don't have security of supply, when they have no access to a competitive market, they pay through the nose more. And then, finally, the secondary phase and the marketing phase dies out and that is exactly what happens.

Chairman GIBBONS. You know, any American concern that can't compete behind a 40-percent tariff which is the lowest that it has ever been since 1932 when it was probably 82 percent, I don't know anybody that has got that kind of tariff. I don't know anybody.

This is not labor intensive. They import the machines to make the nets. The petroleum, which is the basic product, sells the same price worldwide.

Mr. AMORE. Mr. Chairman, it is labor intensive, I beg to differ, with different types of netting. With monofilament nylon netting it is very, very labor intensive.

Mr. BAILEY. Mr. Chairman, I, incidentally, agree with you very strongly on this point and I don't want to create the impression that you are not concerned about these things and somehow I have access to information that you don't.

I happen to agree that the response in terms of tariffs and duties is not a viable way to look at the problems that we have. I agree with that.

The thing that concerns me is that we get the 40-percent tariffs, 40-percent duties and problems like that because we have not done the right things, particularly with our Tax Code, and with our trade policy underneath that have made those things possible.

But I can sit down and go through a number of different areas and I will debate anyone in the world on it when we are talking about Government policies.

I sat down with some British people, for example, on oversupply, on world steel supply, on the issue of subsidization and they will sit right there and tell you that there is no question, that in terms of what those words mean that subsidization is something that takes place.

A world oversupply problem, our response to it is different. We let the market operate. Labor is an expendable overhead cost. We lay people off. We create structural unemployment problems and move out of the world oversupply situation that way.

The Europeans don't do that. You know they're in national competition and we are still the playground of the world.

But I agree with you, Mr. Chairman. I know that you are talking about that kind of protective aspect that tells you that something is wrong. I don't know whether we agree or disagree on the cause but your point in that regard is well taken and I can't debate you on that one. I think you are right.

Chairman GIBBONS. All right, let's go to the next panel. Thank you very much.

Mr. AMORE. Thank you, Mr. Chairman.

Mr. INCE. Thank you.

Chairman GIBBONS. We will next go to Mr. Jack Edwards who is here on behalf of H.R. 4480, Mr. Howard's bill to extend to June 30, 1985, the suspension on the import duties on synthetic rutile.

STATEMENT OF HON. JACK EDWARDS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

Mr. EDWARDS. Thank you, Mr. Chairman. It is good to be here. I will ask Mr. Hayes to join me, if I may, Mr. Chairman.

Mr. Chairman, I wish to express my grave concern over H.R. 4480, to extend the import duty on synthetic rutile through June 30, 1985.

As you know, and this committee knows the import duty was originally suspended temporarily in 1974. The temporary suspension was subsequently extended twice and is due to expire on June 30, 1982.

There was good reason for suspending the synthetic rutile import duty during that time. World production was down and there was virtually no domestic production circumstances which resulted in a worldwide shortage.

Synthetic rutile is primarily used in the manufacture of titanium dioxide pigment, a white material used in paint, paper, plastics, and fabrics.

It is also an important feedstock for the production of titanium metal, an element vital to our national defense.

The world shortage of synthetic rutile in 1974 necessitated suspension of the import duty, and that suspension was in the best interest of the Nation.

The situation has now changed, however, and the import duty must be allowed to go into effect again as scheduled.

The Kerr-McGee Chemical Corp., after overcoming environmental snags, began synthetic rutile production in earnest in early 1980.

Kerr-McGee's plant in Mobile, Ala., in my congressional district, presently has the capability of producing 110,000 short tons of synthetic rutile per year.

It is the world's largest producer of the material. Some 65,000 tons are used by Kerr-McGee in the production of titanium dioxide. That leaves 45,000 tons, most of which is presently stockpiled, for consumption by other U.S. industries.

The United States imported 41,000 tons in 1981, an amount which could easily be supplied by our domestic producer.

In addition, world production has increased and can supply 1 million tons per year. The world demand is only 600,000 tons, projected to increase to about 650,000 tons by 1985.

Mr. Chairman, with this 45,000 tons that is being stockpiled, basically, looking for a buyer, Kerr-McGee went to Japan to try to sell some to Japan and, lo and behold, they have got an 8-percent duty on rutile and so we couldn't sell it over there. And it might be interesting for the committee to know that Japan is currently exporting its synthetic rutile to the United States without paying duty due to the suspension of these tariffs.

If the synthetic rutile duty is reinstated, it will impose a 6.6-percent tariff on imports which will decrease to 5 percent by 1987. This tariff will have no significant impact on prices; but its further suspension will undoubtedly have an adverse effect on the domestic industry.

The United States has sought to encourage domestic production of defense-related materials, including synthetic rutile, and has indicated opposition to reliance on foreign imports.

I would point out here that when Kerr-McGee was considering producing synthetic rutile in my district this tariff was in effect and just about the time they got started on their plant, you folks suspended the tariff and now Kerr-McGee is in production.

They are turning out a good product and there is no reason any longer to have this tariff suspended as there was in the 1974 timeframe.

The administration has also suggested a national minerals policy which emphasizes the need to produce more strategic minerals in the United States.

The question then is whether domestic industry can fulfill our defense-related synthetic rutile needs in the years to come. I think the answer is "Yes." Clearly they can.

American producers can, in fact, supply sufficient synthetic rutile stocks to meet our defense needs and they can gear up to produce even more on rather short notice.

However, we should bear in mind that, should U.S. production lag, the duty suspension may be reimposed at any point.

But until that unlikely event occurs, we should afford our domestic industry every chance to be competitive in this field, a field that we have encouraged them to get into.

The world synthetic rutile market does not warrant duty-free status in light of the facts.

Mr. Chairman, I understand that there is a group who oppose the position that I have taken in a paper dated March 15, 1982.

I have been through that paper and I would point out that there are a number of errors in it, primarily because so much of it is based on 1977 figures when, in fact, there was no U.S. production of synthetic rutile .

I would like permission, Mr. Chairman, either in my name or the name of Kerr-McGee, to submit some responses to that paper, if I may.

Chairman GIBBONS. We would like to have it as rapidly as possible.

Mr. EDWARDS. Mr. Chairman, I strongly urge this committee to reject H.R. 4480. To do otherwise would be unjust and would effectively squeeze the domestic rutile manufacturer out of the U.S. market.

What may have been right in 1974 is not right in 1982. I need the committee's support on this particular issue.

I would be happy to answer any questions.

Chairman GIBBONS. Mr. Hayes, do you have a statement?

STATEMENT OF WILLIAM B. HAYES, VICE PRESIDENT, KERR-McGEE CHEMICAL CORP.

Mr. HAYES. I appreciate the opportunity to do so. Mr. Chairman and members of the subcommittee, I am William B. Hayes, vice president of Kerr-McGee Chemical Corp. I am here to testify in opposition to H.R. 4480, which would extend the suspension of the duty on the import of synthetic rutile from June 30, 1982 to June 30, 1985.

Synthetic rutile is ilmenite ore, upgraded to increase its titanium dioxide content from below 60 percent to in excess of 90 percent. It is one of the basic feed materials used to make titanium dioxide pigment, the primary white material used in the manufacture of paints, industrial coatings and paints, paper, rubber, fabrics, plastics and ink.

It is also a critical component used to manufacture titanium metal and alloys which are instrumental in the construction of defense-related materials.

As background, in 1976, Kerr-McGee Chemical Corp. initiated production of synthetic rutile at its facility in Mobile, Ala. While this facility was designed for a capabity of 110,000 short tons per year, the largest synthetic rutile plant in the world, environmental and operational process problems severely impeded initial production, and as a result, this plant was deactivated in 1978.

Having resolved both problems, the facility was reactivated in February 1980, and is currently producing at full rate of 110,000 tons of synthetic rutile per year.

Of this total production, approximately 65,000 tons of synthetic rutile is used as feed material for Kerr-McGee's titanium dioxide plant, located in Hamilton, Miss.

Only a relatively small portion of the remaining 45,000 to 50,000 tons has been sold to domestic users. Approximately 30,000 tons is currently being stockpiled by Kerr-McGee.

There are four major reasons that Kerr-McGee opposes the enactment of H.R. 4480.

One, the reasons for the previous suspensions of import duties on synthetic rutile no longer exist.

Two, from a strategic standpoint, the United States cannot become totally reliant on potentially unstable foreign resources which are vital to this country's national defense.

Three, there would be virtually no cost impact on the consumer by reimposing the set duty on synthetic rutile.

Four, the excess domestic production of synthetic rutile can meet virtually all of the domestic requirements.

As to No. 1, Congress originally suspended the duty on synthetic rutile in 1974 for 3 years. At that time, there was no domestic production of rutile substitute. When the duty was suspended for an additional 2 years, in 1977, Kerr-McGee's facility—as previously noted—was not producing at its anticipated capacity, and was deactivated a year later.

Finally, the third and most recent extension of the duty suspension occurred in 1979, when operations at Kerr-McGee's facility were still shut down.

Today, as this subcommittee considers H.R. 4480, we have, unlike the previous three occasions, a fully operational domestic synthetic rutile plant.

An additional reason for justifying the previous three suspensions of import duties on synthetic rutile was due to a worldwide shortage of rutile ore. Once again, it is noted that the current market conditions for rutile and rutile substitutes have changed significantly from the past.

Four new sources of rutile and rutile substitutes have entered the market for a combined world capacity in excess of 1 million tons. Present worldwide demand is only 600,000 tons, with a projected increase to approximately 650,000 tons by 1985.

As can be seen from the foregoing, the prior justification for suspension of the duty does not exist. Not only is there a worldwide surplus of ore supply, which will continue to exist into the future, there is also a substantial amount of domestic production that can be utilized by domestic manufacturing.

Our second point is strategically, the United States should not become dependent on foreign sources of critical materials.

Due to the strategic importance of titanium metals for defense applications, there has been considerable concern over U.S. dependence on imported rutile, the basic ore source for titanium metal.

Pursuant to the Defense Production Act, the United States has supported industry efforts in developing a defense-related synthetic rutile industry. Continued suspension of the tariff would discourage, if not stop, the further development of domestic rutile substitutes, and the Government's efforts and expenses for this program would be for naught.

The present administration is on record as opposing this country's growing dependence on foreign strategic resources, including titanium. Continuation of the suspension of synthetic rutile import duties could have potential damaging effects on the domestic production of titanium metals should it become necessary for Kerr-McGee to reduce or cease output from its synthetic rutile plant in Mobile, Ala.

Our third point is speaking to the cost impact on consumers. We state the cost impact will be de minimis if duty is reinstated.

The cost impact of reinstating a 6.6-percent synthetic rutile tariff—decreasing by 5 percent by 1987—on imports would be, at most, de minimis. During 1981, just over 41,000 tons of synthetic rutile were imported into the United States. The CIF value of these imports was in excess of $11 million.

Approximately $750,000 of revenues would be generated with the duty rate being 6.6 percent. While it is unlikely, judging from current market conditions, for this additional cost to be passed on to the synthetic rutile consumer, even if it were, the added cost would be insignificant—that is, less than 0.1 percent of the price of Ti02 pigment and less than 0.02 percent of the cost of titanium metal.

Thus, any argument that reinstituting a tariff on synthetic rutile would be detrimental to the user and ultimately the consumer is without merit. We then set out in Point 4 the fact that domestic production of synthetic rutile cannot be sold competitively with continued suspension of duty.

Those contending that the suspension of the tariff on synthetic rutile should be continued rely on the argument that Kerr-McGee can sell to private users the 45,000 tons not required for its Ti02 plant.

This is simply not the case. In fact, in attempting to market the remaining synthetic rutile, the possibility of selling this product to Japan was explored, but was dropped after discovering that Japan imposes an 8-percent import duty on synthetic rutile.

Coincidentally, Japan is currently exporting its synthetic rutile to the United States without paying duty due to the suspension of tariffs. According to the Bureau of Census figures, 41,354 tons of synthetic rutile were imported in 1981.

Thus, with excess production of 45,000 tons, it can be seen that Kerr-McGee is in a position to supply a substantial amount of the domestic demand for synthetic rutile. Kerr-McGee is indeed prepared to enter into multi-year contracts at competitive prices for the sale of its synthetic rutile.

I might add further that in the refining, we can produce additional tonnage, on the order of 7 to 10,000 tons beyond what we have now.

To summarize in conclusion, during the past 18 months, Kerr-McGee's synthetic rutile plant has been producing at full capacity without technical or environmental problems. During this period the duty on imports of synthetic rutile has been suspended and a record has been established regarding the inability of Kerr-McGee to market its excess synthetic rutile.

The suspension of this import duty was never intended to be permanent, but was imposed in an atmosphere characterized by worldwide rutile shortages and a lack of domestic synthetic rutile production.

The time has arrived when this temporary suspension is no longer required, and support now needs to be directed toward a domestic industry that provides an essential source of defense-related raw material and enhances national security.

If, at a later date, the worldwide supply of rutile/rutile substitute should vary from forecasts, or other reasons so justify, then the question of suspending the duty on imports of synthetic rutile can be reexamined.

In view of the foregoing, Kerr-McGee would contend that yet another suspension of import duties on synthetic rutile is not justified. This subcommittee should not approve H.R. 4480.

Chairman GIBBONS. Thank you, Mr. Hayes.

Mr. Hayes, as you know, we always run these bills past the administration to get their views on them. I know how sensitive the production of rutile is and its relationship to titanium. I know how connected titanium production is to defense needs.

They say that we should still continue the suspension; this is not a repeal of the duty, but a suspension of the duty. When we asked them why, they seemed to have some doubt in their mind that, one, you were going to be a dependable supplier, a long-term supplier; and, two, you were internally going to use all of the rutile, the synthetic rutile, that you produced.

What have you got to say in response to those two?

Mr. HAYES. Kerr-McGee has invested in exess of $60 million. We had initial problems in starting up the plant. We retired from the operation for a year or two to correct the processing difficulties. Then we invested the manpower and learning in reinstituting the operation of the synthetic rutile.

We do intend to be in business. We need to have an economical business to operate. When we undertook the project originally in 1974, there was a duty in place. This was one of the factors on which we assumed we could depend during the development and inauguration of this new process.

The plant is working. We have revised the process. We now have it on stream. It is producing—in the month of April, it produced at the rate of 111,000 tons a year.

Chairman GIBBONS. Is there a possibility that Kerr-McGee may use internally all of the rutile?

Mr. HAYES. No; Kerr-McGee will not. I might mention, in the mid-seventies, when we constructed the synthetic rutile plant, we had plans for building another titanium dioxide plant. That plant was not built, and we are not planning now to build it.

In any event, it would take 3 to 4 years to build a titanium dioxide plant. The surplus material we now have would be certainly available for a minimum of that time. As I said, we have no current plans for building that.

Chairman GIBBONS. Any other questions?

Thank you very much.

Mr. HAYES. Thank you, Mr. Chairman.

Mr. EDWARDS. Thank you, Mr. Chairman.

Chairman GIBBONS. Yes, sir.

We have a witness from the Hitox Corp.

STATEMENT OF WILLIAM T. GLYNN, CHAIRMAN, HITOX CORP. OF AMERICA

Mr. GLYNN. Good afternoon, Mr. Chairman.

I am William T. Glynn, the chairman of Hitox Corp., from Red Bank, N.J. and Corpus Christi, Tex. We are producers of titanium pigment using synthetic rutile as feed material.

Mr. Chairman, I have submitted a statement to the committee which I presume you have.

Chairman GIBBONS. Yes, sir, the entire statement will be made a part of the record.

Mr. GLYNN. I would like that as part of the record.

Rather than read it, I would like to speak extemporaneously on this matter.

Chairman GIBBONS. We would appreciate that.

Mr. GLYNN. The conclusion of my statement, the statement on behalf of Hitox Corp. is that H.R. 4480 is in the national interests, and in the interests of the entire titanium industry.

A substantial reason for that, the principal reason for that, is that the duty on synthetic rutile adds a cost to the production of this material which eventually winds up in the marketplace.

This adds to the inflationary spiral and it produces one other result, which is not in the interests of the titanium industry nor in the national interests, and that is it encourages and makes an additional market for titanium dioxide from foreign sources here.

In 1981—let me back up a moment. In 1979, and in 1980, in each one of those 2 years, approximately 100,000 tons of titanium pigment from foreign sources were dumped on the domestic market.

In 1981, there were 125,000 tons, a 25-percent increase, obviously. That is not in the national interests nor in the interests of the total titanium industry.

These conclusions have been reached by the current administration, Mr. Bruce Miller, who spoke for the administration today and at the earlier hearings. He has had this information before him. They examined the factors Mr. Hayes and Mr. Edwards brought to your attention a few moments ago.

The administration has concluded that H.R. 4480 is a bill they should support. In addition to that, other producers of titanium pigment in this country have supported the position which I am speaking to you about this afternoon.

In particular, Gulf & Western and SCM Corp. who, while they can't be here today, have advised me they intend to provide you with a statement of their position on this matter before you conclude your considerations.

How does this all affect Hitox Corp.? In this fashion, Mr. Chairman: We are a small business. When we are talking about du Pont or the other people in this business, Kerr-McGee, Gulf & Western, National Lead, and the other people in this business—there are only a handful of us—they dwarf Hitox Corp.

That is recognizable. We are a small business. I think however our voice should be heard. We are a private company and we have been able to attract private interests, private money because we have a unique, dry, nonpolluting method of producing titanium pigment.

Incidentally, our product—the trade name for it is Hitox, can be produced only from synthetic rutile, because it is a dry process. The other processes the other producers use are wet processes. They either use liquid chlorine gas or sulfuric acid.

We have developed markets for our product which are supplementary to and in certain respects competitive to the larger producers; for instance, the State of Texas has taken our product and incorporated Hitex into the specifications for highway paint in replacement of chrome yellow.

I should point out to you, Mr. Chairman, Mr. Bailey, Mr. Frenzel, Hitox is a buff-colored titanium pigment. As you probably know—I heard you mention a few moments ago—you are aware that regular pigment is pure white. So our product is slightly different, but it has been growing, its acceptability has been growing in the market.

In fact, we have an expansion program under consideration now and should duty be imposed, should H.R. 4480 not pass, this expansion program of ours will be obliterated; and indeed, our entire operation will be in great jeopardy.

I would like to respond to a couple of the points that Mr. Edwards and Mr. Hayes mentioned. First of all, Mr. Edwards mentioned that in 1974, the duty on synthetic rutile was a temporary matter. That is correct.

However, what he didn't mention was that when the TSUS, that is, the Tariff Schedules of the United States, were formulated with respect to this matter at an earlier date, synthetic rutile was not a commercial product.

It came into being only in the early seventies. So it was not a matter of consideration at that time. To fill that gap, the temporary duty measure was adopted and written into the TSUS schedules.

I suppose one of the reasons at that time it was only temporary is because they weren't sure synthetic rutile was going to be a continued commercial product. I want to mention at this time that all the other feed materials for the production of titanium pigment—titanium tetrachloride, as well, from which pigment is made by one of the processes—are free of duty.

Those products are, one, natural rutile; two, ilmenite, which is another titanium-bearing ore, both rutile and ilmenite being titanium-bearing ores, there are some in your District, Mr. Chairman and titanium slag.

Depending upon where titanium comes from, it contains 70-odd percent to 80-odd percent Ti02. Ilmenite in usable quantities for the production of titanium pigment contains 50 to 60-odd percent Ti02.

Rutile, natural rutile, contains approximately 96 percent Ti02; synthetic rutile contains anywhere from 90 to 95 percent Ti02. From the fact that all these other products are free of duty, excepting synthetic rutile, it appears to us that this is discriminatory and unjust, it is unfair.

There is no real difference in their use. Incidentally, when we refer to synthetic rutile, the word "synthetic" as used in this connection is somewhat of a misnomer. When you think of synthetic, you think of, let's say, synthetic rubber. That is actually a synthetic material.

Synthetic rutile is not a synthetic material. It is a natural material. It is made from ilmenite ore by eliminating the iron content and some of the other impurities. The two principal components of ilmenite are iron and titanium.

When you eliminate the iron, you are left with titanium content. That is called synthetic rutile. It is usable, obviously, for all purposes that natural rutile—or substantially all purposes that natural rutile is used for.

Mr. Edwards also mentioned that in 1981, synthetic rutile imports were 41,000 tons. What he failed to mention were that in 1980, imports were 78,000 and in 1979, there were 118,000. 1981 was a very poor year for titanium pigment.

That may explain a part of the decline in the usage—or the importations for that year. The thrust of what I am saying is that the Kerr-McGee operation in Mobile, Ala., is a very valuable operation, but it cannot supply the entire requirements for the titanium industry.

Incidentally, I would say that I think Kerr-McGee is way ahead of the other titanium producers because they have this facility. They are going to find that they built this facility in time so that their costs are at a minimum.

If they had to build this at a later date, their costs would be double what they are now. There is also a statement that there be no impact on prices because of the imposition of duty. Well, I beg to differ with that conclusion.

An imposition of duty would cost us approximately $30 a ton. That is a very substantial amount. In our terms, it is very substantial and because that is a penny and a half a pound, $30 a ton—short ton, it becomes a significant amount to us, and it would be a significant amount, I believe, to the other members of the titanium industry.

Incidentally, the paper that Mr. Edwards referred to as containing some errors was not submitted by Hitox Corp. I am aware of what he is speaking of, however; and some of the information that was submitted is a little old.

The principal thrust of that memorandum is true and informative, I do believe.

Mr. Hayes mentioned national defense and the ability of the Kerr-McGee plant in Mobile, Ala. to produce material in the event rutile is not available.

Well, whether there is duty imposed or not, that plant will still be there. I don't believe that that is a significant factor or should be a significant factor in your considerations.

Mr. Chairman, that is the substance of my testimony. If you have any questions, I would be glad to respond.

[The prepared statements follow:]

Hitox Corporation of America

STATEMENT IN SUPPORT OF THE CONTINUED SUSPENSION OF U.S. CUSTOMS DUTY ON SYNTHETIC RUTILE AS PROPOSED BY H.R. 4480 BEFORE THE 97TH CONGRESS

History

The Tariff Schedule of the United States (TSUS) in item 911.25 of the Appendix, suspends the ad valorem tariff duty on the importation of Synthetic Rutile into the United States. Duty was originally suspended in 1974 shortly after this product became commercial. It was again suspended in 1974, 1977 and in 1979. The present suspension period expires on June 30, 1982.

The current ad valorem duty rate in Synthetic Rutile is, under TSUS 603.70, 6.6 percent and is scheduled for a staged reduction down to 5 percent by 1987.

Also under concessions granted by the General System of Preferences, duty on Synthetic Rutile is eliminated on imports from designated underdeveloped countries.

Synthetic rutile and other titanium pigment feed materials

Synthetic Rutile and Natural Rutile, a titanium dioxide bearing ore, are both used as feed material for the production of titanium pigment by the Chloride Process, and for the production of titanium metal. Natural Rutile is imported free of duty.

Ilmenite, another titanium dioxide bearing ore, is used as a feed material for the production of titanium pigment by the Sulfate Process. This process has substantial environmental pollution problems. Ilmenite is also imported free of duty.

Titanium Slag, another feed material used for the production of titanium pigment, is also imported duty free. Titanium Slag is used primarily as feed material for the Sulfate Process.

Synthetic Rutile is made from Ilmenite Ore by extracting the iron content from the ore. There is one U.S. producer and a number of foreign producers located in Australia, Japan, Taiwan and India. Of all the raw materials used to produce titanium pigment, only Synthetic Rutile is subject to customs duty, the rest being duty free.

Effects of imposition of duty on imported synthetic rutile

1. The United States is a very substantial user of titanium products, consuming about 800,000 tons of pigment per year and about 45,000 tons of titanium metal. The imposition of duty on Synthetic Rutile is discriminatory because it is the only titanium production feed material subject to duty. The effect of duty imposition is to increase the cost of raw materials to the pigment industry, causing in turn, a price escalation of domestically produced titanium pigment.This results in a further inflationary spiral, which can seriously effect the U.S. economy.

2. Moreover, this latter effect would result in a condition inviting further competition of foreign produced pigment in this Country. In recent years, imports of titanium pigment into the U.S. have risen and it is clearly not in the interest of the U.S. to create conditions encouraging an increase in such foreign competition and the resulting diminishing of U.S. producers domestic market.

3. As a result of the probable effects on the U.S. economy recited above, the employment conditions in the titanium industry would be adversely effected because of a lessening in demand for U.S. manufactured pigments.

4. There would be a definitive adverse effect on the small U.S. pigment producer, Hitox Corporation of America (HCA), resulting from the imposition of duty on its imported Synthetic Rutile. The titanium pigment HCA offers is produced by a dry, non-pollutant process. It is not available from any other source, foreign or domestic, and is important to the economic conditions of the industries it serves because of its price structure. See copy of the attached letter from HCA to Chairman Gibbons.

CONCLUSION

It is apparent that a failure to continue suspension of duty on Synthetic Rutile will have an adverse effect on titanium pigment industry in this Country by not only increasing its costs, but by inviting the competition of foreign producers.

In addition, there is a discriminatory and unfair condition created by encumbering Synthetic Rutile with duty while no other such feed material is subject to this cost.

Furthermore, an imposition of duty mitigates unfairly against Hitox Corporation of America as a small business concern, for the reasons recited herein, and in the attached letter to Chairman Gibbons.

Consequently, we urge the prompt passage of HR 4480.

Respectfully submitted.

William T. Glynn, *Chairman.*

Hitox Corporation of America,
Red Bank, N.J., March 26, 1982.

Re H.R. 4480—Suspension of duty on synthetic rutile.

Congressman Sam M. Gibbons,
Chairman, Subcommittee on Trade,
Rayburn House Office Building, Washington, D.C.

Dear Congressman: This letter is written in support of HR 4480, a bill before the 97th Congress to extend through June 30, 1985, the suspension of U.S. import duty on Synthetic Rutile, a titanium dioxide containing commercial product.

Hitox Corporation of America (HCA) is a small, privately owned producer of titanium pigment, with manufacturing facilities in Corpus Christi, Texas. We require Synthetic Rutile as feed material for our production. Because of the lack of sufficient supplies of required grade of Synthetic Rutile from a domestic source, we must import this raw material, as we have been doing this for a number of years. An assessment of import duty would have a significant adverse impact on HCA's ability to be competitive and to remain in business.

HCA produces pigment by a unique method that allows us to compete with the large pigment producers and we have been able to attract private capital because of our success to date and our significant potential. With the market for our product improving steadily, we contemplate doubling our work force by 1983 and a requirement for 150 people by the 1985 to 1987 period. This expansion of the work force will be coupled by an expansion of production facilities requiring new investment over the period of approximately $2,000,000. These expansion plans are predicated upon the continuance of conditions no worse than those presently prevailing.

We believe that this type of activity by small business is of vital importance to the healthy economy of these United States, and should be encouraged by all factions having to deal with the commercial operating conditions in this country.

With the above in mind, it is important to know that the lifting of the suspension of duty on Synthetic Rutile will do an irreparable harm to a business such as ours, without materially benefiting other activities. HCA must use Synthetic Rutile as its raw material, and cannot use either Natural Rutile or Ilmenite, both of which are duty free. Should duty be imposed on the importation of Synthetic Rutile, not only would there be an unjustice and a discriminatory condition created, because of the non-duty status of Natural Rutile and Ilmenite, but it would also, no doubt, cause the abandonment of our expansion plans and a curtailment of our present activities. Consequently, we urge the prompt approval of H.R. 4480 by your sub-committee and then by the full Ways and Means Committee and by the House.

If we can be of further assistance in describing the plight of the small businessman and the importance of H.R. 4480 to us, please let me know. Please advise also, should you wish these views presented directly to your committee.

Very truly yours,

William T. Glynn, *Chairman.*

SUPPLEMENTARY STATEMENT OF HITOX CORPORATION OF AMERICA

Hitox Corporation of America (HCA) has heretofore submitted to the Committee on Ways and Means, a statement dated May 11, 1982, in support of HR 4480 and wishes to supplement that statement herein.

HEARINGS BEFORE SUBCOMMITTEE ON TRADE

The Ways and Means Sub-Committee on Trade held hearings on HR 4480 on May 17, 1982 and on May 26, 1982. At the May 17 hearing, the Department of Commerce testified, through its spokesman Mr. Bruce Miller, in support of HR 4480. Mr. Miller advised the Committee that the Administration had no objections to the bill, citing as reasons therefore, that the imposition of duty on Synthetic Rutile would add an unnecessary cost to the production of titanium by the domestic titanium industry. He also stated that the continued suspension of duty would discourage further competition of foreign producers of titanium pigment and products in the U.S. market. At the May 26 hearing, Mr. Miller again testified, offering no further comments on HR 4480, thus continuing Administration support.

At the May 26 hearing, testimony was presented on behalf of Kerr McGee Chemical Corporation (KMCC) in opposition to the bill by Congressman Jack Edwards of Alabama and by Mr. William B. Hayes, Vice President of KMCC. Then, Mr. William T. Glynn, Chairman of HCA, testified in support of the bill.

REBUTTAL OF KMCC ASSERTIONS

1. KMCC asserted that duty was suspended on Synthetic Rutile in 1974 as a temporary measure, only because there was then a world shortage of Synthetic Rutile and no domestic production of this product.

KMCC is correct that the suspension was temporary, but the temporary status was for a different reason. When the TSUS (Tariff Schedules of the United States) were drawn for titanium feed materials, Synthetic Rutile was not a commercial product. There was no commercial production anywhere in the world, and there was no demand for it. Synthetic Rutile did not appear until the early 1970's. At that time, all other titanium feed materials were free of duty, e.g., Rutile, Ilmenite and titanium slag. Rutile and Ilmenite are natural ores and titanium slag is a manufactured product. When Synthetic Rutile appeared on the market, consideration was given to its duty status and duty was suspended in 1974, rather than eliminated, quite possibly because of its then indefinite status as a continuing commercial product.

It should be noted here that Synthetic Rutile is not "synthetic" in the strict meaning of that word. Synthetic Rutile would more properly be referred to as Beneficiated Ilmenite, since it is made from Ilmenite ore by washing away the iron content, the principal impurity.

As a result of this situation, should duty be imposed on Synthetic Rutile, it would be unfairly discriminated against as the only titanium feed material subject to duty.

2. KMCC asserts that the imposition of duty would have no significant impact on prices. This statement is just simply not correct. A duty of 6.6 percent (to 5 percent) would add just that amount, plus that percentage on the manufacturing material loss factor, to the cost of raw material alone. This cost, like any cost, is certainly not going to be borne by the manufacturers alone, and will without doubt, find itself reflected in the market price. Any assertion to the contrary is made with tongue in cheek and is unrealistic. Add this to the inflationary spiral and the result is the consumer's cost goes up substantially. Any other conclusion is without merit.

Such an upward spiral has another serious consequence detrimental to the entire titanium industry. An increase in the market price makes the U.S. market more attractive to foreign producers, who are already invading our market place. In 1980 there were 97,590 tons of foreign produced titanium pigment imported to the U.S. market. In 1981, the imports jumped to 124,906 tons. It is certainly not in the national interest, nor in the interest of the titanium industry, that this foreign flooding of the U.S. market continue and Congress should not create conditions that make it even more attractive for foreign producers to invade this very basic industry.

3. KMCC asserts there is a strategic importance to their domestic production of Synthetic Rutile as feed material for the production of titanium metal. This position is in the long run true, for when titanium metal becomes a strategically demanded material in substantial quantities, there probably should be more domestic production of Synthetic Rutile. However, this has no current relevance to the duty matter

under consideration, for the domestic KMCC plant is there whether duty is imposed or not.

4. KMCC asserts that there were 41,000 tons of Synthetic Rutile imported in 1981 and that their plant could supply all the Synthetic Rutile requirements for the industry.

KMCC is correct that there were 41,351 tons of Synthetic Rutile imported in 1981, an extremely poor year for the titanium pigment industry. However, they did not mention that there were 78,263 tons imported in 1980, and 118,006 tons imported in 1979. It is clear, therefore, that KMCC cannot supply sufficient Synthetic Rutile from their domestic operation to satisfy the ordinary and usual requirement of the titanium industry and that imported Synthetic Rutile will continue to be a demanded commodity by this industry. The total requirements for Natural and Synthetic Rutile for the above years were: in 1979—283,479 tons, in 1980—281,605 tons, and in 1981—228,127 tons. All figures above are from the U.S. Bureau of Mines reports.

CONCLUSION

From all of the facts, and from all of the circumstances above cited, there are serious and compelling reasons for the continuation of suspension of duty on Synthetic Rutile. A failure to continue suspension of duty would have a serious adverse effect on the entire titanium industry by not only increasing cost and the inflationary spiral, but by further competition of foreign titanium pigment producers and the resulting diminishing of the market for all domestic producers. Furthermore, the imposition of duty on Synthetic Rutile is an unreasonable and unfair discrimination against this demanded commercial product, which should not be furthered by the Congress.

Consequently, we respectfully urge the prompt approval of HR 4480 by the Committee on Ways and Means and its prompt passage by the 97th Congress.

Respectfully submitted.

WILLIAM T. GLYNN, *Chairman.*

Chairman **GIBBONS**. The debate over synthetic rutile is one that is known to me well. I have listened to this argument now for 6 or 7 years, 8 years. I think I understand the problems. Are there other questions?

Mr. Bailey?

Mr. **BAILEY**. A quick question, Mr. Chairman.

Very, very early in your presentation, you mentioned something about a few years ago, something about dumping. What did you mean by that?

Mr. **GLYNN**. I mean the making available on the domestic market of materials, titanium pigment materials from foreign sources. Under circumstances——

Mr. **BAILEY**. I didn't hear you.

Mr. **GLYNN**. That is what I was saying. I was referring to the marketing by foreign producers——

Mr. **BAILEY**. Below cost?

Mr. **GLYNN**. I am not prepared to say that. I am not privy to the cost structure of the foreign business.

Mr. **BAILEY**. You think it is below cost?

Mr. **GLYNN**. I think it possibly could be. It could be. I am not going to——

Mr. **BAILEY**. Let's get rid of these foreign producers. We are not going to have any trouble with dumping at all. Just get rid of them.

Mr. **GLYNN**. Would you mind repeating that?

Mr. **BAILEY**. I have no more questions.

Chairman **GIBBONS**. Mr. Frenzel.

Mr. **FRENZEL**. Yes, Mr. Chairman.

I want to thank the witness for his testimony. How much of the domestic demand can be satisfied from the Kerr-McGee plant in Alabama?

Mr. **Glynn**. I think, Mr. Frenzel, you would probably get a more accurate response from Kerr-McGee. I am really not privy to their information. They have 110,000 capacity there. I think Mr. Hayes said they could produce slightly in excess of that.

Mr. **Frenzel**. What is the national market?

Mr. **Glynn**. The national market?

Mr. **Frenzel**. Yes.

Mr. **Glynn**. In 1981, synthetic and natural rutile, about 280,000 tons.

Mr. **Frenzel**. Thank you very much.

Mr. **Bailey** [presiding]. Thank you.

Mr. **Glynn**. Thank you.

Mr. **Bailey**. We will next discuss H.R. 5707, Mr. Gibbons' bill.

STATEMENT OF JOSEPH POSER, PRESIDENT, AMERICAN FUR MERCHANTS' ASSOCIATION, INC., ACCOMPANIED BY WALTER SCHWARTZ, PRESIDENT, ASSOCIATED FUR MANUFACTURERS

Mr. **Poser**. Mr. Chairman, members of the subcommittee, I want to thank you for the opportunity to testify in support of H.R. 5707 and I do appreciate you moving us up on the roster, as I have to get back to New York for the annual meeting of my association.

I am the president of the American Fur Merchants' Association, located in New York City. With me is Mr. Walter Schwartz, president of the Associated Fur Manufacturers, also of New York City.

In the interests of saving time, I think I can dispense with the reading of this testimony, which has been entered in the record.

I will gladly try to answer any questions you may have.

[The prepared statement follows:]

Statement of Joseph Poser, President, American Fur Merchants' Association, Inc.

Mr. Chairman and members of the subcommittee, I want to thank you for the opportunity to testify here today in support of H.R. 5707.

I am President of the American Fur Merchants' Association which is located in New York City. The Association's membership is comprised of dealers, brokers, exporters, importers and auction houses of raw and dressed fur skins, most of which have their place of business in New York City.

Today I also speak for the Associated Fur Manufacturers, The United Fur Manufacturers and the Fur Deressers Group. These associations and groups represent various segments of the American fur industry. It is estimated that the entire industry employs 250,000 people. The industry has always had a favorable balance of payments.

We enthusiastically endorse H.R. 5707 that would permit the importation of furs that are the product of the People's Republic of China. At the same time we want to go on record, once again, as also favoring the repeal of the embargo on furs originating in the Union of Soviet Socialist Republics.

From its inception the embargo of Chinese (and Soviet) furs was a political statement. As you will recall its genesis was an amendment from the floor of the Senate by the late Joseph McCarthy.

The practical effect of the embargo was an immediate negative impact on the American fur industry. There was no precipitable negative impact on China (or the USSR) which continued to export their products to other countries.

The negative impact on the American fur industry was not direct. In order to understand the impact there is a need for a somewhat sophisticated understanding of the raw fur market.

The current embargo affects seven items. Although small in terms of dollars and cents the embargo on the seven items has had a significant pyschological effect on international producers and traders and has contributed to a shift of the world raw fur market from New York City to Europe.

The fur trade is basically an international trade. One of the characteristics of a world market is that buyers expect, and are drawn to, a wide and full selection of the world's available furs. Buyers from Canada, South America and Europe prefer to buy in such a market. If a complete selection of furs is not available, these buyers will go elsewhere. In short, why should buyers expend their time and energy to travel to two different locations in order to buy a wide range of products when they could accomplish the same purchases by traveling to one location. It is for this reason that the buyers have largely shifted much of their patronage to European markets and away from this country.

This means that by buyers moving away from the United States in order to have the opportunity to examine and purchase the full range of available furs, there is a loss of income and commissions to dealers, brokers and all workers in New York City who have made, in the past, this city the leading raw fur center in the world. It also means a loss of business to shipping, insurance and financial firms which provide the necessary services for the international fur trade as well as a loss to our manufacturers and dressers of domestic products, which foreign buyers would have purchased had they had come to the United States.

In support of the above we submit the following statistics:

(a) Dressing and dying firms 1951—50 firms; dressing and dying firms 1982—approximately 10.

(b) Manufacturing firms in 1951—2,112; manufacturing firms in 1982—approximately 700.

(c) Workers employed in manufacturing in 1951—13,600; workers employed in manufacturing in 1982—approximately 6,000.

As noted above seven kinds of furs are embargoed. They will be briefly discussed. Both the kolinsky and weasel are not produced in the United States. U.S. production of martin is negligible. U.S. production of ermines is negligible. The ermine which is dressed comes from Canada. The combined production of foxes (red, white, blue and silver) is small.

With respect to muskrats, much of what is produced in the United States is exported. It is anticipated that should the United States be able to import additional skins the world market would be able to absorb what additional skins the United States dressed. The final item is mink. Because in the past there has been some concern raised about the importation of Chinese mink it will be discussed in a little more detail.

It has been claimed by protectionist interests that repealing the ban on Chinese (and Russian) furs, particularly mink, would constitute unfair competition to American mink ranchers. This is not true. Some recent statistics will illustrate the point. In the 1980/81 seasons the U.S. exported 3,137,500 ranch mink skins with a value of $113,082,400. Imports during that season were 3,770,700 skins with a value of $112,589,500. A comparison indicates that 643,200 more skins were imported than exported. However, the value of exported skins was about $500,000 more than the imports. To this should be added the value of wild mink, virtually all of which is exported.

The U.S. produces the finest quality ranch mink in the world. Our estimates are that half the annual production is exported. Minks imported by the United States are raised in Canada, Norway, Denmark, Sweden, Finland, Holland, France, Britain and Ireland to name only the major producers. Mink from these countries are imported to satisfy the demand for moderate to lower priced garments, while U.S. minks are shipped abroad for foreign couturier's use.

Chinese (and Soviet) mink are inferior in quality to all the aforementioned foreign sources. If they are permitted into the U.S. they will either replace part of our present imports or supplement them at the lowest value level, but they will not compete with U.S. mink. Chinese mink exports are estimated to be about 1,000,000 skins.

During the 30 years that the embargo has been in effect China has developed other markets for its skins. It is therefore a matter of speculation as to what proportion of its production might be diverted to this country, if the ban is repealed. We must assume that existing customers will continue to take their share and it is unlikely that more than about 10 percent would be available to us.

Therefore, American mink ranchers have little about which to be concerned for these rasons: imports for domestic consumption will be small; and, second, the imported skins, are an inferior product that will not be competitive. However, and most importantly, the ability of the American fur industry to display Chinese products should enhance the selection of the fur market (by displaying a full range of furs available world wide) and bring to the United States buyers that will not only buy Chinese skins, but American products, including those from American mink ranchers.

One final item needs to be noted. The embargo applies to raw and dressed skins. It does not apply to garments manufactured from the embargoed furs. Although not of a concern competitively, a significant amount of imports into the United States constitutes fur apparel manufactured from embargoed furs. But for the embargo on raw skins, these garments would have been manufactured in the United States. To the extent that they have not been, the existing law has worked an unfairness on the American worker who could have, but for the embargo, been invovled in the manufacturing process.

Once again, Mr. Chairman, I want to thank you and the members of your subcommittee for the opportunity to appear here before you today and offer our views on H.R. 5707.

Chairman GIBBONS. As we understand it, you support this legislation. You would like to see it enacted soon, and you think it will help increase employment in your area; is that right?

Mr. POSER. Yes, sir, definitely.

Chairman GIBBONS. We also hear from the AFL-CIO they are going to support this one.

Mr. POSER. Yes. That is correct.

Chairman GIBBONS. At least one of your component unions will? We are most happy about that.

Mr. FRENZEL. Is it true some of these skins enter the United States after being processed in other countries, and if we pass the Gibbons bill, we might be able to accomplish some of that processing in the United States; is that one of the reasons?

Mr. POSER. That is correct; yes.

Mr. FRENZEL. Is that work being performed in Canada and the United Kingdom, among other places?

Mr. POSER. I believe so. I have no proof of it.

Mr. FRENZEL. Thank you for your testimony.

Mr. BAILEY. I am happy to see the AFL-CIO is on board here. It makes me awfully happy. I hope we can send a joint letter to the Soviet Union telling them we are getting along well with the People's Republic of China.

Thank you, Mr. Chairman.

STATEMENT OF GORDON SILL, PRESIDENT, NATIONAL BOARD OF FUR FARM ORGANIZATIONS

Mr. SILL. Mr. Chairman, members of the committee, I feel like I am on a fence with 10 people with a gun at me. I am Gordon Sill. I am president of the National Board of Fur Farm Organizations, which represents 2,000 active farmers raising fox and mink.

I want to thank you for allowing me to appear before you in opposition to opening up the U.S. market to Chinese furs. It is the finger in the dike.

We are a small, vibrant group who have never asked for Government help before. We feel a major shakeout is already in the works because of the depressed prices of the past 2 years in unsold pelts now in the world market.

We feel the law passed in 1952 by both Houses and signed by the then-President Harry Truman had lots of merit and does not, at this time, need to be repealed.

I would be happy to answer questions if you are interested, but I am sorry to say that we did not know about this. We did not know the protocol, the procedure. We have no lobbyists. We heard it by accident that you were appearing from New York; somebody from New York called us and said it would be smart for us to at least let you know our feelings.

Personally, I am a strong Republican and I know Mr. Frenzel is from the State of Minnesota. We raise more mink in Wisconsin and fox than the whole of China. The whole of China has 1 billion people, as we know. We know the input of the pelts, the 1 million pelts on their market is nothing. It is a drop in the bucket.

The production of mink is 28 million skins that we know of. Fox run up to almost 11 million now in blue, and other colors normally. I see no reason for opening up this for the only reason as far as I understand and when our Governor and Secretary of Agriculture went to China, they called me and said they had four things the Chinese were really interested in.

One was favored nation and the other is to open up the United States or the rest of the world to their fur pelts; seven pelts, two of which we don't even raise.

What upset me was the only reason they want to open up this market is because they do not—they do not want to have the same—or put in line with communist Russia. When the bill was written, it was for communist pelts. They do not think that they are a communist, per se, in the same category.

So with the favored nation, they want to open that up and divorce themselves for a cosmetic reason. I can see no other reason. I do thank you. I will answer any questions to my ability.

Mr. **Frenzel**. I have no questions, I guess. I want to compliment you on your political affiliation. How many fur skins does your group produce each year?

Mr. **Sill**. How many does our group raise? Right now, we are raising 4 million pelts. Eighty-three percent of them go overseas into the fur market. When I say I believe in world markets, in 1970, about 3 percent of our pelts were going out. We were getting $9 and $10 a pelt. Three years ago, as the world market—I would like to say we received help from the Federal Government.

I said we have never asked for it. We didn't. We were called in by the FAS. They said they had money and they would like to help us if we wanted some help. They have built our market now to 83 percent, or I think almost—I believe you gentlemen can tell better. I think there was $121 million worth of pelts sold overseas in this past year.

Mr. **Frenzel**. What happens to them? Where are those markets?

Mr. **Sill**. The markets are, of course, principally where they are sold. That is Italy, Switzerland, France, West Germany, and England are the heavy consumers of skins.

Mr. **Frenzel**. Do those skins come back to this country after processing? Are they used over there?

Mr. **Sill**. No. We do dress them. There are both raw and dressed pelts that leave the country. Most generally because of our trade negotiation—I am talking about Blackglama—we have a natural rule that you cannot do anything to enhance the color.

You have to have natural color. To beat this rule or regulation that we have, they take it outside of the country and they use a brightener. It does enhance it. It is like the young lady that puts on the rouge, the false eyelashes, and the eye paint. It does enhance the pelt.

We have always felt—we have 13 colors. We are proud of them. We want them natural.

Mr. FRENZEL. How much of your U.S. market is going to be affected by this bill and how will that affect the average producer?

Mr. SILL. Mr. Frenzel, I say this without reservation. I would like to be off the record. I firmly know and you know, too, that if you go along with the Chinese, they are not going to affect our market, because we raise a better product.

We do a better job of marketing, we believe. I do not like to see Russia coming into the—these men have wanted to open up Russia. I say no way. They raise 12 million pelts. They consume 10 million because of the type of country they have got, and they export 2 million for trade dollars.

This year, because of the low price of gold and the low price of oil, they threw an extra million pelts on the market and it didn't mean a damned thing as far as the world market prices were concerned.

The interest rate, the depression and other factors has hurt our market more than anything else at this time.

Chairman GIBBONS. You don't object to the Chinese?

Mr. SILL. I am not objecting. I am the president of the organization. I called all 44 presidents of the local groups. They felt at this time, because we didn't know what the impact would be we should voice opposition.

Mr. FRENZEL. Thank you for coming in here. We are glad to know just how you feel on this.

Mr. SILL. Yes.

Chairman GIBBONS. Yes, sir.

This bill is limited strictly to China.

Mr. SILL. Mr. Gibbons, if you went with China, I am sure we would have no opposition.

Chairman GIBBONS. That is they way the bill is drafted. It is limited to China. We are not attempting to do any business with the Russians.

Mr. FRENZEL. I think we can guarantee them we will keep Russia out.

Mr. SILL. I would hate to see those same pelts come back in bullets.

Chairman GIBBONS. We have no intention of opening Russia. We are just talking about China here.

Mr. SILL. The feeling is with the industry it is like the first domino that falls; what falls with it?

Chairman GIBBONS. I understand. Thank you very much.

The next bill we will take up—let me say for all those in the room, don't leave. We are going to finish these bills.

The next bill we will take up is H.R. 5891. The first witness is Surgikos, Inc., Mr. Eugene Rossides.

STATEMENT OF EUGENE T. ROSSIDES, COUNSEL, SURGIKOS, INC., ACCOMPANIED BY ROBERT V. McINTYRE

Mr. ROSSIDES. Thank you, Mr. Chairman. I am very pleased to be here today together with Mr. Robert McIntyre of our firm to testify on behalf of our client, Surgikos, Inc., a Johnson & Johnson Co. located in Arlington, Tex., concerning H.R. 5891.

Surgikos appears in opposition to H.R. 5891. This bill provides for a new tariff item to be inserted in the appendix to the tariff schedules with duty at the column 1 rate of 5.6 percent ad valorem, covering disposable bonded fiber fabric designed for use in hospitals, clinics, laboratories, or contaminated areas, including men's and women's apparel and surgical drapes.

Materials similar to those described in the bill and designed for the same use are presently classified as textile items of apparel in the TSUS at a duty rate of 20 cents a pound, plus 25.8 percent ad valorem.

Surgical drapes of textiles are dutiable at the rate of 21 cents a pound plus 14 percent ad valorem. We understand that the products covered, although disposable, are not biodegradable and for that reason will present problems in waste treatment.

Surgikos presently markets an extensive line of disposable packs and gowns and surgical specialty products for use in major operative procedures. These products are classified as products of reinforced papers and are specifically provided for in the tariff schedules.

This classification has been established in accordance with all the safeguards of the applicable provisions of the schedules.

As such, it provides a standard of certainty for importers and other businessmen who are able to make their business judgments based upon known and accepted standards, procedures, and rules established in current law.

In addition, our client's products are biodegradable and thus do not present the same waste disposal problems.

The recent multilateral trade negotiations, conducted under the auspices of the General Agreement on Tariffs and Trade, GATT, have involved negotiations by all the members of the GATT, including the United States.

The participants have agreed to virtually universal and uniform tariff treatment of products imported into the member countries. These negotiations, in effect, have created a carefully balanced and mutually interdependent system in which each part bears a purposefully measured relationship to the whole.

One of the programs which has developed out of the GATT is known as the generalized system of preferences, which is designed to assist beneficiary developing nations by granting tariff preferences on selected products incident to importations into the participating developed countries, including the United States.

We mention this regarding the GSP, Mr. Chairman, which the United States adopted because under that provision and to show a distinction from our product, which is a paper product, and the textile product, which is the concern of the proposed legislation, the Congress in applying GSP, as you know, of course, is a leader in this area and listed a certain number of excluded items that could not be subject to GSP duty-free treatment.

Of course, heading that list were textile and apparel articles as being import-sensitive. They were the first category of such import-sensitive articles.

For that reason, the reason of import-sensitivity, none of the TSUS items cited in the bill is designated as a duty-free item. Further, the United States is a signatory to the multifiber arrangement for textile products which would be adversely affected by this amendment.

All these reasons militate against the enactment of legislation which would make a specific exception for certain textile materials without the usual safeguards of study of the impact of the proposal and negotiation of arrangements with other countries.

The Congress has provided a statutory mechanism under which individual changes in the tariff schedules may be made after studies of the effect on domestic industries, following the necessary investigation by the International Trade Commission, review by the U.S. Trade Representative, and approval by the President.

Such a study can and does include consideration of all relevant factors, economic and environmental, and the reciprocal benefits the United States might achieve in return for lowering the duty rate on any given item.

Significantly, individual changes for specific products have recently been the subject of negotiations at the GATT by the U.S. Trade Representative, with appropriate tradeoffs in which the United States receives a quid pro quo. This concept of reciprocity is sound, yet no such tradeoff is, or can be, provided in this bill.

The wisdom of adhering to bilateral negotiations made only after study is apparent here, since a study of the effect of the proposed change would, we are quite confident, indicate a seriously adverse impact on both the economic and environmental sides.

Mr. Chairman, we join with the administration in opposing this legislation.

To summarize, Mr. Chairman, in anticipation of the testimony to be forthcoming, these products are not substantially identical. That is referred to several times in the testimony of the next witness.

No. 1, their product is textile; Surgikos is paper.

No. 2, this is import-sensitive as determined by the Congress. Our product is not.

Three, Surgikos' product is predominantly biodegradable. The textile in the instant—in the product under the bill is not biodegradable.

Under the generalized system of preferences, it is clear that this was excluded by the Congress. We do not believe this should be done unilaterally, Mr. Chairman. As I mentioned, we join with the administration in opposing this bill.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF EUGENE T. ROSSIDES, COUNSEL, SURGIKOS, INC.

Mr. Chairman and Members of the Subcommittee: My name is Eugene T. Rossides. I am a partner in the law firm of Rogers & Wells, of Washington and New York, and I am here this morning to testify on behalf of our client Surgikos, Inc., a

Johnson & Johnson company, located in Arlington, Texas, concerning the bill H.R. 5891, to reduce temporarily the duty on certain hospital and surgical apparel. Surgikos appears in opposition to H.R. 5891.

This bill, if enacted, would provide a new tariff item to be inserted in the Appendix to the Tariff Schedules of the United States (TSUS), with duty at the Column 1 rate of 5.6 percent ad valorem, covering disposable bonded fiber fabric designed for use in hospitals, clinics, laboratories, or contaminated areas, including men's and women's apparel and surgical drapes. Materials similar to those described in the bill and designed for the same use are presently classified as textile items of apparel in the TSUS at at a duty rate of 20 cents a pound, plus 25.8 percent ad valorem. Surgical drapes of textiles are dutiable at the rate of 21 cents a pound plus 14 percent ad valorem. We understand that the products covered, although disposable, are not biodegradable and for that reason will present problems in waste treatment.

Surgikos presently markets an extensive line of disposable packs and gowns and surgical specialty products for use in major operative procedures. These products are classified as products of reinforced papers and are specifically provided for in the Tariff Schedules. This classification has been established in accordance with all the safeguards of the applicable provisions of the Schedules. As such, it provides a standard of certainty for importers and other businessmen who are able to make their business judgments based upon known and accepted standards, procedures, and rules established in current law. In addition, our client's products are biodegradable and thus do not present the same waste disposal problems.

The recent multilateral trade negotiations, conducted under the auspices of the General Agreement on Tariffs and Trade (GATT), have involved negotiations by all the members of the GATT, including the United States. The participants have agreed to virtually universal and uniform tariff treatment of products imported into the member countries. These negotiations, in effect, have created a carefully balanced and mutually interdependent system in which each part bears a purposefully measured relationship to the whole. One of the programs which has developed out of the GATT is known as the Generalized System of Preferences (GSP) which is designed to assist beneficiary developing nations by granting tariff preferences on selected products incident to importations into the participating developed countries, including the United States.

The United States has adopted the GSP in P.L. 93-618 approved January 3, 1975 (19 U.S.C. 2461 et seq.). Under the provisions of that law the President is required to designate the articles which may be admitted to the United States duty free under the GSP program but he is specifically precluded from designating certain articles which the Congress has determined are import sensitive. The first category of such import-sensitive articles is textile and apparel articles which are subject to textile agreements. For that reason, the reason of import sensitivity, none of the TSUS items cited in the bill is designated as a duty-free GSP textile item. Further, the United States is a signatory to the multi-fiber arrangement for textile products which would be adversely affected by this amendment.

All these reasons militate against the enactment of legislation which would make a specific exception for certain textile materials without the usual safeguards of study of the impact of the proposal and negotiation of arrangements with other countries.

The Congress has provided a statutory mechanism under which individual changes in the Tariff Schedules may be made after studies of the effect on domestic industries, following the necessary investigation by the International Trade Commission, review by the U.S. Trade Representative, and approval by the President. Such a study can and does include consideration of all relevant factors, economic and environmental, and the reciprocal benefits the United States might achieve in return for lowering the duty rate on any given item. Significantly, individual changes for specific products have recently been the subject of negotiations at the GATT by the U.S. Trade Representative, with appropriate trade-offs in which the United States receives a quid pro quo. This concept of reciprocity is sound, yet no such trade-off is, or can be, provided in this bill.

The wisdom of adhering to bilateral negotiations made only after study is apparent here, since a study of the effect of the proposed change would, we are quite confident, indicate a seriously adverse impact on both the economic and environmental sides.

Mr. Chairman, we join with the Administration in opposing this legislation.

Thank you, Mr. Chairman.

Chairman GIBBONS. Your plant is located in Texas; is that right?

Mr. ROSSIDES. Yes, Mr. Chairman.

Chairman GIBBONS. Is your product 100-percent fabricated in the United States?

Mr. ROSSIDES. Yes, Mr. Chairman. It is manufactured in the United States and there is an assembly in Mexico.

Chairman GIBBONS. Then the answer to my question is no. Your product is fabricated in Mexico; is that right? Put together in Mexico?

Mr. ROSSIDES. Yes, Mr. Chairman. It is assembled in Mexico.

Chairman GIBBONS. And it is a paper product?

Mr. ROSSIDES. Yes, Mr. Chairman.

Chairman GIBBONS. It is biodegradable?

Mr. ROSSIDES. Predominantly. All of the wood pulp is biodegradable. The polyester is significantly biodegradable, Mr. Chairman.

Chairman GIBBONS. Any questions?

Thank you very much.

Mr. ROSSIDES. Thank you, Mr. Chairman.

Chairman GIBBONS. Our next witness represents Kimberly-Clark Corp., Mr. Gene R. McGrevin. He is accompanied by Mr. Freer and Ms. van der Wal.

STATEMENT OF GENE R. McGREVIN, VICE PRESIDENT, HEALTH CARE DIVISION, KIMBERLY-CLARK CORP., ACCOMPANIED BY ROBERT E. FREER, JR., VICE PRESIDENT AND WASHINGTON COUNSEL; AND JEANNE H. van der WAL, REGULATORY ATTORNEY

Mr. McGREVIN. What I would like to do is highlight the testimony we have submitted to you.

I will move through it quickly.

First of all, for those committee members and staff that may not know what a disposable hospital gown is, it is a product that is worn during the operative procedure in surgery by the surgical team; the doctor, the nurses, the assistants.

It is a sterile product that acts as a barrier to cross-contamination infection, both for the patient and for the doctor.

A surgical drape, not like the drapes we see around this beautiful committee room, actually covers the patient and also acts as a barrier to cross-infection, both from the surgical team to the patient and from the patient to the surgical team.

I am the vice president of the Health Care Division for Kimberly-Clark. We are here to support H.R. 5891. Our rationale for supporting that bill is to seek a temporary reduction in the duties for these disposable hospital gowns and drapes. Disposable hospital gowns and drapes are predominantly of paper, paper reinforced with manmade fibers, or all manmade fibers.

My colleagues from Surgikos did not qualify the fact that their products really are not all paper. Their products are comprised of 55 percent polyester and 45 percent paper.

I would like to question the deductive logic of how that equals a total paper product. They are also a nonwoven product and manmade fibers predominate in their products.

Hospital disposable gowns that are manmade are subject to tariffs. The ones that we manufacture carry a tariff that is five to six times the tariffs that are applied against the Surgikos product that is predominantly polyester, but classified, because of its customs ruling, as paper.

H.R. 5891, as you well know, reduces the rate of duty on disposable hospital gowns and drapes to give us simply parity of tariff. We are not asking for a competitive advantage as our major competitors have currently.

We would just like parity. What we have done to perhaps help is that we have assembled for you a list of all the samples that are considered in this bill, both the ones of 100-percent paper which our company also manufactures, the competitive samples that are composits of polyester and paper, as well as our product, which is 100-percent polypropylene.

In addition, we did a little calculation for you that I think is kind of a revelation. If you take a look at the tariff applied to the predominant producers in the market that control 75 percent of the market share, the tariff they have to pay on a gown that costs $1 is 2 cents.

The tariff that we have to pay, a company that has less than a 5-percent market share, is 11 cents on the same product, or five times the amount. It is no wonder we are only at 5-percent market share and they are at 75. This is the tariff inequity we are asking be corrected and the one our bill addresses.

In addition, the bill that was initially drafted has been narrowed significantly from its original form. We are asking that the words "and surgical apparel" be struck from the title of the bill, and the term "hospital gowns and drapes" be inserted.

I might also add that in the Surgikos testimony, it was stated that our bill included apparel categories, such as coats, shirts, suits, trousers, and slacks. That is simply not the case. If you examine the tariff numbers, none of those items are included in the bill. Therefore, I would like that previous testimony to be corrected.

Kimberly-Clark has already spent in excess of $100 million in the United States for the construction of our Corinth mill in Mississippi which manufactures the basic polypropylene fibers that go into these products. The mill in Mississippi now employs more than 250 people and we will be adding another 75 jobs by August of this year, when another $55 million expansion is completed.

As a corporation, we are also considering building another nonwoven facility in the United States, should this developing market and this developing business justify this type of expansion.

In order to commit these significant capital resources, we have got to be able to establish a fair and equitable return on this business. Tariff parity with the rest of the disposable hospital gown and drape market for 5 years would go a long way in providing a fair test for this evaluation and fostering greater competition in the marketplace.

The reason that we have chosen to seek legislative approval for this tariff inequity is that we found that we could not obtain administrative correction through Customs rulings.

The Customs Service has issued two rulings which classify a competitive fabric as reinforced paper whose component of chief value is polyester. I find that hard to believe, but that is one of their rulings.

The effect of these rulings is to treat competitive products with identical end uses differently. We are not before this forum to question or find error with these Customs rulings, but to point out any lack of rational basis for an end-result which would have one fabric assessed a tariff one-fifth that of a substantially identical, competing product.

This ruling puts our health care division at a substantial disadvantage merely because our fabric does not contain a base sheet of paper. Yet, all the products have the same end use. They are sold to the same marketplace and to the same customers.

We have also been able to demonstrate in our laboratories, and through independent testing, that the 100-percent polypropylene Kimberly-Clark fabric has desirable characteristics that actually improve patient care, offer improved barrier properties, and, therefore, hopefully help reduce cross-contamination in hospitals and the well-being of the patient thus will be enhanced.

An illogical application of duty rates should not be used to prevent this product from reaching hospitals at a price comparable to other disposable hospital gowns and drapes, particularly in the spiraling inflationary times we are finding in health care.

Paying 2 cents duty on a gown versus 11 cents puts us at a distinct disadvantage. In summary, we believe a temporary tariff reduction establishing tariff parity for disposable hospital gowns and drapes will help reduce an inadequacy in current tariffs and enable small health care businesses like Kimberly-Clark's health care division to be effective competitors in the marketplace.

We believe a 5-year term will provide sufficient time to evaluate capital investment for new U.S. facilities. The base sheet of our disposable drapes and gowns is made in the United States and its production employs U.S. labor. It helps support the raw material suppliers that provide us raw materials who are also U.S.-based.

Therefore, we will have increased employment in those arenas also. The only way we can get there is by at least being put in an equal competitive position with the people who have 75-percent market share and have tariff advantages.

Before closing my remarks, I would just like to address one other issue, if I may. That is the issue of biodegradability that came up in the earlier testimony. I would like to make a few additional comments on this point. If one would take a look at the Polymer Science and Technology Series, volume 3, on page 64, there is a chart. For the record, that chart evaluates many different polymers on a range of zero to five, zero being bad; five being good.

Both polypropylene and polyester are given a No. 1 ranking, which means they are just to the right of being bad, and I don't mean that in terms of any political right or left, either.

What I mean by that statement is polyester in the Johnson & Johnson-Surgikos fabric is no different with regard to biodegradability than the polypropylene fabric we have in our product.

Second, the American Society for Testing and Materials, Special Technical Publication 533, entitled "Disposal of Plastics with Minimum Environmental Impact," rates both polypropylene and polyester as resistant to biodegradability.

We happen to believe our fabrics are ecologically biodegradable. In fact, if you happen to incinerate our fabric, it turns into two very harmful items called water and carbon dioxide. I doubt if there is any pollution element relative to burning our fabric.

In reality, in terms of landfills, it has been proven in some studies that you have to have some stability in landfills. We feel that polypropylene, although it may have a 20-year life in terms of biodegradability, will eventually degrade, but will offer some landfill stability during those 20 years.

In summary, we are asking your support and the support of the committee to help rectify an inequitable situation in the tariffs.

Thank you.

[The prepared statement follows:]

STATEMENT OF GENE R. McGREVIN, VICE PRESIDENT, HEALTH CARE DIVISION, KIMBERLY-CLARK CORP.

I. INTRODUCTION.

The following testimony is filed on behalf of the Health Care Division of Kimberly-Clark Corporation (hereafter, "Kimberly-Clark" or the "Corporation") in support of H.R. 5891, a bill to reduce temporarily the duty on certain hospital gowns and drapes.

Kimberly-Clark Corporation is in the business of manufacturing and marketing products made from fibers. The Corporation manufactures its products in the United States and many other countries, and markets them in most areas of the world. The products are grouped into three major classes: Consumer and Service; Newsprint, Pulp and Forest Products; and Paper and Specialties.

Products in the Consumer and Service Class, the largest of the three classes, includes facial tissue, bathroom tissue, feminine napkins and tampons, disposable diapers and household towels sold under a variety of trademarks including KLEENEX, KOTEX, NEW FREEDOM, DELSEY and HI-DRI. This class also includes products for health care, such as disposable hospital gowns, packs, and accessories; and industrial wiping markets as well as materials sold to others for conversion.

The Newsprint, Pulp and Forest Products Class includes lumber, pulp, groundwood printing papers and newsprint. The Paper and Specialties Class includes a variety of industrial and specialty papers; correspondence, cover and text papers, and other products.

II. PURPOSE OF H.R. 5891.

The rationale for seeking a temporary reduction in duties for disposable hospital gowns and drapes of bonded-fiber fabric, is to remedy a significant tariff inequity. Disposable hospital gowns and drapes predominantly of paper, or paper reinforced with man-made fibers, are classified in Tariff Schedules of the United States ("TSUS") item 256.8780 with an applicable duty rate of 5.6% *ad valorem*. Yet, disposable hospital gowns and drapes predominantly of bonded-fiber fabric (man-made fiber) are classified in TSUS items 379.9601 (formerly 380.8407), 383.9205 (formerly 382.8131) and 389.6265 and are subject to duty rates four to five times higher. Currently, 379.9601 and 383.9205 are assessed duty rates of 20¢ per pound and 25.8% *ad valorem* and the duty rate applied to 389.6265 is 21¢ per pound and 14% *ad valorem*.

H.R. 5891 temporarily reduces the rate of duty on disposable hospital gowns and drapes comprised of bonded-fiber fabric to a level of tariff parity with other disposable hospital gowns and drapes comprised of polyester, nylon, polyethylene, polypropylene, and wood pulp combinations. The majority of producers of these substantially identical disposable products currently pay 5.6% ad valorem on value added abroad, while Kimberly-Clark Corporation pays duties four to five times this amount, and we are informed that this is six to ten times the 1981 International Trade Commission average tariff collected for all free and dutiable imports of 3.4%. We believe the exceptionally high duties paid on disposable polypropylene hospital gowns and drapes do little to assist America's concerns over sky-rocketing hospital costs and inflation.

III. DESCRIPTION OF H.R. 5891.

The bill, as introduced, has been narrowed from its original form to include only hospital gowns of bonded-fiber fabric contained in TSUS items 379.9601 (men's or boys') and 383.9205 (women's and girls'), and hospital drapes of bonded-fiber fabric contained in TSUS item 389.6265. The general apparel categories for coats, shirts, suits, trousers, slacks, etc. of man-made fibers, 379.9501 (men's) and 383.9005 (women's), are not included in this bill. In order to clarify this point, the Corporation suggests that the title of H.R. 5891 be amended to read, "[a] bill to reduce temporarily the duty on certain hospital gowns and drapes," thereby striking the words "...and surgical apparel" and replacing them with the words "...gowns and drapes."

The bill provides for duty reduction to 5.6% ad valorem to expire in five years. The five-year term was selected to provide time for Kimberly-Clark to assess the success and effectiveness of our major capital investment for the manufacture of the polypropylene base sheet. We believe this trial period will establish that the reduction will have a favorable affect on U.S. industry and jobs by expanding U.S. component fabric production facilities and raw material suppliers.

Kimberly-Clark has already spent in excess of one-hundred million dollars for the construction of our Corinth mill in Mississippi which manufactures the polypropylene base sheet for these products. This mill now employs more than 250 people and will be adding another 75 jobs as our current fifty-five million dollar expansion draws to completion. The Corporation is considering an investment of an additional one-hundred million dollars to build another facility in the U.S., should this young business provide the justification. In order to commit to this substantial capital investment, the Corporation needs several years to evaluate the performance of the product and establish a reasonable return on these initial investments. Tariff parity with the rest of the disposable hospital gown and drape market for five years would go a long way toward providing a fair test for this evaluation.

The five-year term was also selected to coincide with the Multilateral Trade Negotiation ("MTN") final tariff reduction implementation in 1987.* If Congress decides against reinstating the temporary reduction in 1988, the 5.6% tariff rate would increase to the 1987 final MTN implementation rates of 17% and 9% for hospital gowns and drapes respectively.

IV. DESCRIPTION OF THE U.S. CUSTOMS RULING ENABLING DISPOSABLE HOSPITAL PRODUCTS, WHOSE COMPONENT OF CHIEF VALUE IS MAN-MADE FIBER, TO ENTER THE U.S. AT 5.6% AD VAL. AS REINFORCED PAPER.

Although, as we indicated, our products are substantially identical with those of our competitiors, we have found it necessary to seek a legislative solution because we are unable to fit within existing Customs Service rulings. The Customs Service has issued two rulings which classify a competitive fabric as "reinforced paper," whose component of chief value is polyester. The effect of these rulings is to treat competitive products with identical end uses differently.

These rulings numbered 027919 (July 6, 1973), and 055364, (February 19, 1980), classify disposable operating room gowns consisting of 55% polyester and 45% wood pulp as reinforced paper, importable at 5.6% ad valorem. The first ruling indicated that when a layer of tissue paper produced from wood pulp on a standard papermaking machine and a nonwoven layer are entangled

---

*

TSUS #	1982 Tariff Rate	1987 Tariff Rate
256.8780	5.6% ad val.	5.6% ad val.
379.9601	20¢ per lb + 25.8% ad val.	17% ad val.
383.9205	20¢ per lb + 25.8% ad val.	17% ad val.
389.6265	21¢ per lb + 14% ad val.	9% ad val.

by pressure from sprayed water the resulting base sheet is reinforced paper.

The second ruling was a response to a request for internal advice on the first ruling from the District Director of Customs in El Paso, Texas. The District Director questioned the logic of the first ruling and indicated that the component of chief value was polyester which would classify it as man-made fiber apparel. He also indicated that only the initial paper sheet was made on a conventional papermaking machine, not the entire finished base sheet. Customs responded that the component of chief value rule was irrelevant because reinforced paper is an "eo nomine" (describing a product by name) classification provision. Secondly, Customs responded that "[i]t is sufficient that the paper used in producing the reinforced paper first was made on a standard papermaking machine without modifications" for the entire finished base sheet to be classified as reinforced paper. Thus, Customs has indicated that the fact that the component of chief value of fabric is polyester is irrelevant, and that so long as the initial base sheet is made on a papermaking machine, the result of blending the base sheet with any amount of man-made fiber is reinforced paper, not a textile, and carries a duty rate of 5.6% ad valorem.

We are not before this forum to find error with the Customs Service rulings, but to point out any lack of a rational basis for an end result which would have one fabric assessed a tariff one-fifth that of a substantially identical competing product. This ruling puts our Health Care Division at a substantial disadvantage merely because our fabric does not contain a minimal amount of paper. The component of chief value for both fabrics is man-made fiber. They have the same end uses and are sold to the same markets.

Kimberly-Clark's 100% polypropylene base sheet has demonstrated in laboratory testing such desirable characteristics as low lint, effective bacterial barrier properties, good fabric breathability and drapability, and minimal likelihood of supporting flame. Our polypropylene base sheet is a desirable product advancement that will contribute to the well-being of the patient and ~~to~~ cost containment by reducing hospital infection and reinfection. Illogical application of duty rates should not be used to prevent this product from reaching hospitals at a price comparable to other disposable gowns and drapes.

V. DESCRIPTION OF THE MANUFACTURING PROCESS OF POLYPROPYLENE GOWNS AND DRAPES.

Kimberly-Clark's polypropylene base sheet is manufactured only in the U.S. Polypropylene pellets are melted down in a hopper and then pumped through extruders. Fine fibers exit the extruders and are collected as an unbonded mat on a forming wire. A calendar is used to thermally bond several layers together, a process which is typical of papermaking. The result is a bonded-fiber fabric. We would like to emphasize that no spinning or weaving is involved in the process.

VI. DESCRIPTION OF THE RELEVANT MARKET.

The bill, in its current form, will not change the competitive status of domestic assembly operations for disposable hospital gowns and drapes. We would estimate that the 5% of the total market that assembles disposable gowns and drapes in the U.S. employs about 130 persons in assembly operations. This 5% of the market, consisting of two companies, has historically faced competition from disposable gowns and drapes re-entering the U.S. at a 5.6% ad valorem duty rate on value added, and will continue to do so.

The assembly of disposable hospital gowns and drapes is labor intensive and cannot currently be cost effectively performed in the United States. Manufacturers are seeking methods to minimize costs in order to cooperate with the health care cost containment efforts, and reduce the affect of inflation on their businesses.

A chart is attached hereto as Attachment A, which sets forth our estimate of the approximate market shares, product components and tariffs of the companies comprising the disposable hospital gown and drape market. The chart indicates that Kimberly-Clark generally pays duties five times higher than our competitors do for entry of substantially identical products. It is our belief that a reduction of the currently applicable duty rates of 20¢ per pound and 25.8% ad valorem and 21¢ per pound and 14% ad valorem for gowns and drapes respectively to 5.6% ad valorem will place no greater competitive burden on our competitors than already exists. They have historically competed with products entering the U.S. at 5.6% ad valorem and they will continue to do so.

VII. CONCLUSION.

Kimberly-Clark believes that a temporary tariff reduction establishing tariff parity for disposable hospital gowns and drapes will help rectify a competitive inadequacy in current tariffs and enable smaller health care businesses like Kimberly-Clark's Health Care Division to be more effective competitors.

We believe a five-year term will provide sufficient time to evaluate capital investment potential for new U.S facilities. Because the base sheet components are all manufactured in the U.S., if the business expands as a result of reduced tariffs, the U.S. component fabric production facilities and raw material suppliers will benefit by increased sales and expanded labor forces.

We thank you for this opportunity to present this testimony.

Market Share	Company	Components of Hospital Drape and Gown Products	Assembly Location	TSUS Item Number	1982 Tariff Rate
45%	American Convertors (Division of American Hospital Supply Corp.)	1) SONTARA - 45% polyester, 55% wood pulp	Mexico	256.8780	5.6% ad val.
		2) REGARD/KAYCEL - 95% wood pulp, 5% nylon scrim		256.8780	5.6% ad val.
		3) DEXTER - 10 - 35% polyester, 55 - 85% wood pulp		256.8780	5.6% ad val.
		4) TYVEK - 100% spunbond polyethylene		379.9601 383.9205	20¢ per lb + 25.8% ad val. 20¢ per lb + 25.8% ad val.
30%	Surgikos Inc. (Division of Johnson & Johnson)	1) FABRIC 450 - 55% polyester, 45% wood pulp	Mexico	256.8780	5.6% ad val.
7%	Procter & Gamble	1) BOUNDARY (FABRIC III) - 75% wood pulp, 25% spunbond polyester	Dominican Republic and Huntsville, Alabama	GSP	FREE
6%	Kimberly-Clark Corp.	1) KIMGUARD - 100% spunbond polypropylene	Mexico	379.9601 383.9205 389.6265	20¢ per lb + 25.8% ad val. 20¢ per lb + 25.8% ad val. 21¢ per lb + 14% ad val.
		2) SPUNGUARD - 100% spunbond polypropylene		379.9601 383.9205 389.6265	20¢ per lb + 25.8% ad val. 20¢ per lb + 25.8% ad val. 21¢ per lb + 14% ad val.
		3) KAYCEL - 95% wood pulp, 5% nylon scrim		256.8780	5.6% ad val.
5%	Work Wear Corp., Inc. (includes former Will Ross Co.)	1) KAYCEL - 95% wood pulp, 5% nylon scrim	Mexico	256.8780	5.6% ad val.
		2) DEXTER - 10 - 35% polyester, 55 - 85% wood pulp		256.8780	5.6% ad val.
4%	Kendall Co. (Division of Colgate-Palmolive Co.)	1) TYVEK - 100% spunbond polyethylene	U.S.		
		2) KAYCEL - 95% wood pulp, 5% nylon scrim			

(continued on next page)

Attachment A

Market Share	Company	Components of Hospital Drape and Gown Products	Assembly Location	TSUS Item Number	1982 Tariff Rate
1%	Humboldt Products Co. (Sometimes referred to as Tekna-Med or Ultra-Tek)	1) KAYCEL - 50-75% wood pulp, 25-50% nylon scrim 2) DEXTER - 10 - 35% polyester, 55 - 85% wood pulp	Domincan Republic and Columbus, Mississippi	GSP	FREE
1%	General Econo-Pak	1) KAYCEL - 95% wood pulp, 5% nylon scrim 2) GEORGIA-PACIFIC - 95% wood pulp, 5% nylon scrim 3) DEXTER - 10 - 35% polyester, 55 - 85% wood pulp	U.S.		
1%	Disposable Profiles	1) KAYCEL - 95% wood pulp, 5% nylon scrim 2) GEORGIA-PACIFIC - 95% wood pulp, 5% nylon scrim 3) DEXTER - 10 - 35% polyester, 55 - 85% wood pulp	Mexico	256.8780	5.6% ad val.

-- Some of these products contain binders and other treatment chemicals not included in the fiber percentages.

-- Kimberly-Clark, Dexter and DuPont are the primary producers of the component disposable base sheet for these hospital gowns and drapes. All of the base sheet is manufactured in the U.S.

Attachment A

Chairman GIBBONS. Do you think the amendments that you have suggested would remove the administration's opposition to this bill?

Mr. McGREVIN. Mr. Chairman, it is my understanding that the administration is opposing the bill philosophically according to some of the points discussed this morning regarding the cantaloup situation.

That is based on Mexico being a nonparticipator of the GATT agreements. The administration is taking a philosophical position.

We as a corporation probably agree with their philosophical position, but as in the case of cantaloups, I really think that disposable hospital gowns and drapes are certainly not a significant bartering item with the Mexicans.

I would like to go on record as stating we have discussed this with the Mexican Government. They have made the statement, through Mr. Alfredo Gutierrez in the Mexican Embassy, that they don't consider this a significant bartering item. If it were on the table, they wouldn't move on it at all. I think the administration's position, philosophically, I agree with. Practically, it doesn't make a lot of sense.

Chairman GIBBONS. Well, let me see if I understand this argument here. Here we have a couple of mom-and-pop operations, Kimberly-Clark and Johnson & Johnson, and both of them are bringing in material. One claims it is paper and one claims it is a synthetic product, and there is some dispute about whether they are or are not between the contestants; and both of them send the material out of the country to be fabricated in Mexico, but when you bring yours back in, you pay 2 cents duty, and when they bring theirs back in they pay 11 cents; is that it?

Mr. McGREVIN. That is exactly right.

I would like to point out, Mr. Chairman, that although Kimberly-Clark is perhaps not in the mom-and-pop category and Johnson & Johnson is not, Kimberly-Clark has a small health care division under $80 million going against a $6 billion health care corporation.

Additionally, if you take a look at the market share dominance of this market, 75 percent is controlled by the combination of American Hospital Supply and Johnson & Johnson, and of that 75 percent, 30 percent is controlled by Johnson & Johnson.

If I had the tariff advantage, I contend I could be 30 percent also, if my competitors were at the 5 to 6 times tariff rate that we are.

Chairman GIBBONS. Any question?

[No response.]

Chairman GIBBONS. I wish you would submit those commitments as requested. Perhaps we ought to try this one out. I certainly don't have anything against Johnson & Johnson. They are a new constituent of mine but I don't think that we ought to discriminate against creditors where the product is used for the same purpose. It is almost identical, I guess.

Mr. McGREVIN. Mr. Chairman, your logic is very refreshing. I wish that the Customs people would listen to your testimony also.

Chairman GIBBONS. Well, maybe we will get their attention one of these days.

Mr. McGREVIN. Thank you, sir.

Chairman GIBBONS. Thank you very much.

Mr. McGREVIN. We appreciate it.

[The following was subsequently received:]

Kimberly-Clark Corporation

June 4, 1982

ROBERT E. FREER, JR.
WASHINGTON COUNSEL

House Committee on Ways and Means
Subcommittee on Trade
House of Representatives
Washington, D.C. 20515

Gentlemen:

We would like to reiterate our suggestion that the title of H.R. 5891 be amended as set forth on page 3 of the May 26, 1982, statement of Gene R. McGrevin, Vice President of Kimberly-Clark Corporation's Health Care Division, before the Subcommittee on Trade of the House Committee on Ways and Means. In addition, we request that ATTACHMENTS B and C to this letter be added as supplements to the aforementioned testimony.

Attachment B contains references to scientific articles, setting forth the biodegradability of commercial plastics. These sources indicate that the biodegradability of polyester, which is contained in some nonwoven fabrics classified as reinforced paper, is comparable to the biodegradability of polypropylene, which comprises the subject fabric in our bill.

Attachment C was made available to Congressmen during our testimony. It is a hypothetical example demonstrating the difference in duty paid per dollar on the value added, of polypropylene hospital drapes and gowns as compared with identical items made of paper or reinforced paper.

Thank you for your assistance.

Sincerely,

Jeanne H. van der Wal

Jeanne H. van der Wal
Regulatory Attorney

cc: K. Hinsch - Roswell w/attachments
G. McGrevin - Avent w/attachments

1000 WILSON BLVD., SUITE 2200 ARLINGTON, VIRGINIA 22209 PHONE (703) 276-9200
An Equal Opportunity Employer

ATTACHMENT B

- REFERENCES -

1. H. W. Mackinney, symposium chairman, ASTM Special Technical Publication 533, "Disposal of Plastics with Minimum Environmental Impact," 1973. P. 26.

   "Polypropylene, * polyethylene terephthalate ** and numerous other plastics appear to be inherently resistant to microbial degradation."

2. H.H.G. Jellinek, Aspects of Degradation and Stabilization of Polymers, Elsevier Scientific Publishing Company, 1979, P. 656.

   "Commercially available nylons, such as nylon 6, nylon 6,6 and nylon 12 are quite inert, as are aromatic polyesters such as those derived from ethylene glycol and terephthalic acid."

3. James Guillet (ed), Polymers and Ecological Problems, Plenum Press, 1973, P. 64.

"TABLE I"

J.E. Potts et al.

BIODEGRADABILITY OF COMMERCIAL PLASTICS

Product	Growth rating
Poly(propylene)	1
Poly(ethylene terephthalate)	1

---

* Polypropylene is used by Kimberly-Clark.

** Polyethylene terephthalate (polyester), to the best of our knowledge, is used in some nonwoven fabrics classified as reinforced paper, such as those sold by Surgikos.

ATTACHMENT C

May 26, 1982

HYPOTHETICAL EXAMPLE USED FOR COMPUTATION OF DUTY

Section 807 Rule - To compute the duty under Section 807, the relevant specific or the compound duty rate is applied to the total value of the product and then reduced by the proportion of the cost or value of the U. S. components to the full value of the article.

Competitive Reinforced Paper Gown -

5.6% is the applicable rate. Assume both the competitive reinforced paper gown and the Kimberly-Clark Corporation gown are worth $1.00; value of U. S. components $ .60; weight 1 pound.

$1.00 (value of gown) - $ .60 (value of U.S. components) = $ .40
$ .40 is the value added or dutiable value
duty = $ .02 ($ .40 X 5.6%)
total cost = $1.02 (gown + duty)

Kimberly-Clark Gown -

rate $ .20 per pound + 25.8% ad val.
$1.00 - $ .60 = $ .40 value added or dutiable value

percentage rate $ .40 X 25.8% = $ .10

pound rate 40% of 1 pound is % value added
.4 pound X $ .20 = .08

total duty $ .11 (vs. competitive reinforced paper gown at $ .02)

Total Kimberly-Clark Corporation Cost = $1.00 + $ .11 = $1.11

Thus:

Competitive Reinforced Paper Gown = $1.02 (gown + duty)

Kimberly-Clark Corporation = $1.11 (gown + duty)

Chairman **Gibbons**. Next is a bill by Mr. Rostenkowski, not unknown to this committee, H.R. 5823. We will ask the people from Schwinn Bicycle Co. and Bicycle Manufacturers Association of America to come forward. Dia-Compe and ABS Industries.

STATEMENT OF BROCK R. LANDRY, GENERAL COUNSEL, ON BEHALF OF SCHWINN BICYCLE CO.

Mr. **Landry**. Good afternoon, Mr. Chairman. My name is Brock Landry. I am Schwinn's general counsel. I won't read my statement but I will ask that it be entered in the record. I will just highlight the points, if I may.

Chairman **Gibbons**. All right.

Mr. **Landry**. H.R. 5823 was introduced by Representative Rostenkowski who is the Representative of the district in which Schwinn is located in Chicago.

The duty suspension on bicycle parts has been in place since 1971 and there are two principal reasons for it which are the same today as they were in 1971.

First, the parts that are covered are not available from any domestic sources of supply.

Second, there is a disparity in the tariff schedules between the treatment of complete bicycles and bicycle parts. The 10-speed bicycles that Schwinn makes, for instance, are assessed at a rate of 5.5 percent if they are brought in from foreign sources.

The parts that are incorporated into bikes that Schwinn makes, however, are assessed at rates of 11.6 or 14.2 percent.

Therefore, for instance, if Schwinn brings in spokes from Germany, it pays 11.6-percent duty. If those same spokes were incorporated into a bicycle manufactured in Germany and brought in, they would be assessed at 5.5 percent of their value.

H.R. 5823 has two principal features. First, it extends the tariff suspension on bicycle parts until June 30, 1986, another 3 years.

Second, it deletes one part that has been in the legislation for several years, that being click stick levers. A click stick lever is a control that is used either with a derailleur shifter or a three-speed shifter.

We are advised that one domestic manufacturer, the Excel Corp., which is a division of Beatrice Foods, is making derailleur lever shifters. They requested that, because of this domestic production, the part be removed from the bill.

We are asking, however, and we will be seeking a sponsor for an amendment which would clarify the situation regarding shifting controls that are used with three-speed hubs.

Excel does not make these types of controls and it has no objection to that change.

Along with the Bicycle Manufacturers Association we are recommending that "trigger and twist grip controls for use with three-speed hubs" be added to the bill.

Schwinn feels that it is essential that the duty suspension be continued for another 3 years. We are at a very critical time in our industry. In the best days of bicycle sales back in 1973 and 1974, the domestic industry made in excess of 10 million units a year.

The last 2 years the domestic manufacturers have produced less than 7 million units. Schwinn's labor figures, for instance, reflect the downturn in sales.

In 1979, we had an average monthly number of workers of 1,996. This has been going down steadily.

In 1980, it was down to 1,642. In 1981, down to 1,096 and for the first 5 months of 1982 our average labor force has been 715 workers.

For all these reasons we would urge that H.R. 5823 be promptly adopted by the committee and passed onto the full House.

Thank you very much.

[The prepared statement follows:]

STATEMENT OF SCHWINN BICYCLE CO. TO SUPPLEMENT TESTIMONY OF BROCK R. LANDRY

SUMMARY OF ARGUMENT

1. What H.R. 5823 does—

(a) Extends for thirty-six months the duty suspension on bicycle parts which has been in effect since 1971.

(b) Deletes "click stick levers" from T.S.U.S. Item No. 912.10.

2. Reasons for the duty suspension—

(a) The parts encompassed by the bill have no domestic sources of supply. Schwinn must rely on foreign sources for these components with or without tariff relief.

(b) The Tariff Schedules create a distinct disadvantage to American Bicycle manufacturers in that most imported parts are assessed at between 11.6 percent and 14.2 percent ad valorem while most imported bicycles are assessed at 5.5 percent or 11 percent ad valorem.

3. Miscellaneous—

(a) Schwinn recommends that "trigger and twist grip controls for use with three-speed hubs" be added to T.S.U.S. Item No. 912.10.

(b) The Legislative history should correct misconceptions that have arisen regarding "cotterless type crank sets".

Schwinn Bicycle Company submits these comments in support of H.R. 5823 to supplement the oral testimony of Brock R. Landry, which was presented to the Committee on May 26, 1982. Schwinn respectfully requests that the Committee favorably report this bill at the earliest opportunity.

Schwinn is an Illinois corporation with its principal place of business in Chicago, Illinois. Schwinn also maintains a manufacturing facility in Mississippi. Since 1895, Schwinn has produced and sold high quality bicycles and component parts and has established a reputation for high standards of performance and workmanship. In 1981, Schwinn's sales accounted for approximately 11.4 percent of all bicycles sold in the United States. Schwinn has perhaps the best vantage point of any American bicycle producer in commenting on the problems of foreign competition, imports and exports. Like other domestic producers, Schwinn imports a great many foreign parts which are either unavailable, not of sufficient quality or not available in sufficient quantities in the domestic market. In addition, Schwinn also imports complete bicycles from Taiwan and Japan. However, Schwinn is primarily a domestic manufacturer of bicycles and wants to foster the well-being of the American bicycle industry. It is in pursuit of this goal that we are advocating the extension of the duty suspension on certain bicycle parts.

A. HISTORY OF THE TARIFF SUSPENSION OF BICYCLE PARTS

In 1970, Representative Fulton of Tennessee first proposed the tariff suspension for certain bicycle parts. Public Law 91-689, commonly known as the "Fulton Bill", created two duty free categories in the tariff schedules, T.S.U.S. Items No. 912.05 and 912.10, which then encompassed nine parts: generator lighting sets, derailleurs, caliper brakes, drum brakes, three-speed hubs incorporating coaster brakes, three-speed hubs not incorporating coaster brakes, click twist grips, click stick levers, and multiple freewheel sprockets. These duty free categories were extended for an additional three-year period in 1974 by Public Law 93-490.

In 1977, legislation sponsored by Representative Dan Rostenkowski of Illinois, Public Law 95-161, extended the duty suspension until June 30, 1980. That bill deleted derailleurs, due to the emergence of a new American manufacturer, and added coaster brakes, cotterless type crank sets, rims and certain frame tubing to the duty free categories. The legislation also provided duty free treatment for parts of the items appearing in T.S.U.S. No. 912.10.

Representative Rostenkowski again sponsored the extension of duty free treatment in 1980. That legislation Public Law 96-467, deleted "rims" from the category and inserted "frame lugs" and "two-speed hubs with internal gear-changing mechanisms".

B. THE CHANGES EFFECTED BY H.R. 5823

H.R. 5823 has two principal provisions. First, T.S.U.S. Item No. 912.05 and 912.10 which are scheduled to expire on June 30, 1980, would be enlivened for another thirty-six months. This is clearly the most important feature of the legislation. Although some have suggested that a permanent reclassification might be appropriate, the limited duration bills have been used in the past so that a reevaluation can be made periodically of emerging domestic sources of supply for the various components.

"Click stick levers" would be deleted from the bill because of the emergence of a domestic source of supply, the Excel Company, a division of Beatrice Foods. Click stick levers are shifting devices for multi-gear bicycles which have detents or "positive indexing" which produce a characteristic click when they reach an indicated gear shifting position. In 1971 when the Fulton bill was introduced, click stick levers were typically located on the top tube of bicycles and were used to control derailleurs. Since that time the Consumer Products Safety Commission has banned the use of click stick levers in the top tube area where riders might become injured, but click stick levers located elsewhere for use with derailleurs and with three-speed hubs have been widely used.

Excel began producing commercial quantities of derailleurs in approximately 1976, which prompted the removal of derailleurs from the bill. Excel now maintains that its derailleur controls are separately available and therefore Schwinn agrees that the part should be removed from T.S.U.S. Item No. 912.10.

However, due to the fact that Excel does not make levers used in three-speed shifting, Schwinn recommends that the following part be added to the duty free category:

"Trigger and twist grip controls for use with three-speed hubs."

Schwinn is advised that Excel has no objection to this addition.

C. REASONS FOR THE DUTY SUSPENSION

There are two basic reasons for the continuing tariff suspension on bicycle parts—to eliminate duties which do not serve any protective purpose and to improve the competitive posture of American bicycle manufacturers vis-a-vis their foreign competitors.

The primary purpose of tariffs is to offer some measure of protection to American industries. The revenue impact of tariffs in general and of the bicycle parts provisions particularly, is relatively minor compared to the other taxing sources. In the case of H.R. 5823, only those parts which have no domestic sources of supply have been included. American bicycle component manufacturers would not be protected by the imposition of tariffs on these parts.

In the absence of American sources of supply, tariffs are directly detrimental to both American bicycle manufacturers and to the consuming public. It seems pointless to assess duties on parts, and hence raise the cost of the bicycle to manufacturers and to consumers alike, when the manufacturers are compelled to purchase parts from abroad anyway. Schwinn is now, and in the foreseeable future will be, dependent on foreign sources of supply for the parts affected by H.R. 5823. Whether the legislation passes or not, Schwinn will still be forced to purchase these components from foreign supplies. The effect of the imposition of tariffs on these items is very direct—it increases the cost of the bicycle and hence its price. This has a very definite impact on the marketability of American bicycles and is particularly unfair in light of the tariff treatment afforded complete bicycles which are imported.

There is an anomalous disparity in the tariff schedules between the treatment afforded bicycle parts which are imported into this country for assembly into American made bicycles and the treatment given to imported, foreign-made bicycles. Most bicycle parts fall within T.S.U.S. Item No. 732.35-732.42 and are assessed at rates between 11.6 percent and 14.2 percent ad valorem. Complete bicycles on the other hand fall within T.S.U.S. Item No. 732.02 through 732.26. The vast majority of these imports fall within T.S.U.S. Item No. 732.18:

"Bicycles: Having both wheels over twenty-five inches in diameter: Valued over $16.66⅔ each—5.5 percent; and T.S.U.S. Item No. 732.12: "Bicycles: Having both wheels over 19 inches but not over 25" in diameter: Valued over $13.33⅓—11 percent.

In the Smoot-Hawley Tariff Act of 1930, Paragraph 371, both parts and bicycles were assessed at the same rate. Numerous changes in the intervening years have left us with the patchwork provisions currently found in the Tariff Schedules.

The strange evolution of the Tariff Schedules created an inequitable competitive disadvantage for American bicycle manufacturers. For example, Schwinn imports spokes from Germany for use in its bicycle production in Chicago. These spokes are assessed at 14.2 percent ad valorem. If the very same spokes were incorporated into a German bicycle and sent to this country, they would be dutiable, as part of the complete bicycle, at 5.5 percent of their value. Obviously, this gives foreign manufacturers a significant cost advantage in marketing their bicycles. A suspension of tariffs on the parts listed in T.S.U.S. Items No. 912.05 and 912.10 partially compensates for this on-going differential.

The report which accompanied the original tariff suspension (Senate Finance Committee Report No. 91-1536, December 3, 1970) stated that the purpose of the bill was—

". . . *to improve the competitive ability of domestic manufacturers of bicycles* of temporarily suspending the duty on imports of certain bicycle parts and accessories thereby reducing their cost." 1970 U.S. Code Cong. and Admin. News, p. 6115. (Emphasis supplied)

The purpose is unchanged today. The logic which underscored the enactment of T.S.U.S. Item No. 912.05 and 912.10 in 1971 and their extensions in 1974, 1977 and 1980 is undiminished in 1982.

D. LEGISLATIVE HISTORY

Since the last enactment of the duty suspension bill, it has come to Schwinn's attention that some importers, with the apparent acquiescence of the U.S. Customs Service, are stretching the definition of "cotterless type crank sets" far beyond its original scope. The Cycle Parts and Accessories Association and ABS, a domestic manufacturer of one piece forged cranks, have already brought this to the attention of various governmental bodies. We urge the Committee to clarify this situation in the legislative history.

Cotterless type crank sets contain three major components, a spindle or axle, a left crank arm and a right crank arm which often is attached to a chain wheel. Unlike some sets, they are held together with a bolt and washer rather than cotters. The term had a well defined meaning in the trade in 1977, when Schwinn first proposed its inclusion in the duty free provisions and we believe it still does.

Some now argue that one piece cranks do not use cotters and therefore are "cotterless type crank sets". This interpretation totally ignores the word "sets" which implies more than one part. Nonetheless, the argument has prevailed in some ports.

The American bicycle parts manufacturers have reciprocated by not pressing for duty free treatment of domestically manufactured components. For this reason, Schwinn urges the Committee to include the following language in its report on this legislation:

"The Committee notes that "cotterles type crank sets" does not include cranks in which the two arms and axle are a single piece."

CONCLUSION

For the foregoing reasons, Schwinn urges the Committee to favorably report H.R. 5823 at the earliest opportunity. Although there are still thirteen months remaining before the expiration of the duty free categories, we hope that the legislation can be passed by both houses of the Congress well before June 30, 1983. During the last two considerations of these provisions, the passage of the bill was delayed until substantially after the expiration dates. This necessitated numerous requests for refunds and created significant difficulties for both the Customs Service and the bicycle manufacturers. Your early and favorable consideration would be greatly appreciated.

Chairman GIBBONS. Tom Shannon.

STATEMENT OF THOMAS F. SHANNON, COUNSEL, ACCOMPANIED BY LAUREN R. HOWARD, COUNSEL, ON BEHALF OF THE BICYCLE MANUFACTURERS ASSOCIATION OF AMERICA, INC.

Mr. SHANNON. My name is Tom Shannon with the law firm of Collier, Shannon, Rill & Scott.

I am going to summarize my testimony very briefly. We represent AMF Wheel Goods Division, Columbia Manufacturing Co.; Huffy Corp., which is the largest bicycle manufacturer, located in Dayton, Ohio, with plants in Oklahoma and California; and the Murray Ohio Manufacturing Co., with a large plant in Nashville, Tenn.

In summary, BMA strongly urges the committee to support H.R. 5823, a bill which will temporarily suspend the duties on certain bicycle components.

Congress has enacted suspension legislation on bicycle parts four times since 1971. Duty suspension legislation is necessary to avoid bias in the tariff schedules of the United States against the U.S. bicycle industry in that the duty on finished bicycles is higher than the duty on bicycle components. Duty-free treatment on bicycle components was essential because of the import sensitivity of the bicycle industry.

There is no domestic production of the bicycle parts whose duties are to be suspended.

Present need for the suspension of duties on bicycle parts is that the steady increase in imports of bicycles highlights the urgency of the need for duty suspension legislation to maintain the competitive position of the domestic bicycle manufacturers.

Further, as Schwinn has suggested, BMA recommends certain amendments to the existing bill and that it be further amended to conclude the following language after the phrase, "frame lugs": "trigger and twist grip controls for use with three-speed hubs."

In conclusion, H.R. 5823 is a bill of limited duration and merely suspends and does not eliminate duties on bicycle parts and we urge its immediate approval.

[The prepared statement follows:]

STATEMENT ON BEHALF OF THE BICYCLE MANUFACTURERS ASSOCIATION OF AMERICA, INC., PRESENTED BY THOMAS F. SHANNON

SUMMARY

1. BMA strongly urges the Committee to support H.R. 5823, a bill to temporarily suspend the duties on certain bicycle components.

2. History of duty suspension legislation—

A. Congress has enacted duty suspension legislation on bicycle parts four times since 1971.

B. Duty suspension legislation was necessary to avoid bias in the Tariff Schedules of the United States against the U.S. bicycle industry in that the duty on finished bicycles was higher than the duty on bicycle components.

C. Duty-free treatment on bicycle components was vital because of the import sensitivity of the domestic bicycle industry.

D. There was no domestic production of the bicycle parts whose duties were suspended.

3. Present need for suspension of duties on bicycle parts—

A. The steady increase in imports of bicycles highlights the urgency of the need for duty suspension legislation to maintain the competitive position of domestic bicycle manufacturers.

B. BMA recommends that Item 912.10 of the appendix to the Tariff Schedules of the United States (19 U.S.C. § 1202) be further amended to include the following language after the phrase "frame lugs": "trigger and twist grip controls for use with three-speed hubs." There is no domestic source for these articles.

4. Conclusion—

A. H.R. 5823 is a bill of limited duration; it merely suspends—and does not eliminate—duties on bicycle parts.

B. BMA urges the Committee's expeditious approval of H.R. 5823.

STATEMENT

Mr. Chairman and Members of the Committee, my name is Thomas F. Shannon of the law firm of Collier, Shannon, Rill and Scott. I am accompanied by Lauren R. Howard of our firm. We serve as counsel to the Bicycle Manufacturers Association of America, Inc. ("BMA") and present this statement on behalf of the four bicycle manufacturer members of that organization.[1] BMA is a non-profit trade association of domestic bicycle manufacturers that manufacture approximately 85 percent of the bicycles produced in the United States. We thank you for this opportunity to appear today to express BMA's views on H.R. 5823.

BMA strongly urges you to support H.R. 5823. H.R. 5823 extends until June 30, 1986 the suspension of duties on certain imported bicycle parts such as brakes, hubs and sprockets.[2] It also eliminates, effective June 30, 1983, the duty suspension treatment of click stick levers.

HISTORY OF DUTY SUSPENSION LEGISLATION

In 1971, Congress first suspended the duties on certain bicycle parts. It has subsequently renewed the duty suspension legislation three times, in 1974, 1977 and 1980.[3] During the four sessions that it considered such legislation, Congress recognized that, absent passage of a duty suspension bill, the Tariff Schedules of the United States contained an unfair bias against domestic manufacturers of bicycles. Most imported bicycles were, and continue to be, dutiable at a lower rate than most imported bicycle parts. This anomaly, if uncorrected by duty suspension, enables foreign bicycle manufacturers to assemble bicycles abroad with foreign bicycle parts and import the complete product (including the component parts) into the United States, subject to the lower duty rate imposed on bicycles. In contract, the domestic manufacturers of bicycles must first import certain components necessary to complete the manufacture of a bicycle at the higher duty rate imposed on bicycle parts.

Absent the duty suspension, the Tariff Schedules, in effect, impose a penalty on the manufactuer of bicycles in the United States, where costs of doing business are already significantly higher. Even the high productivity and efficiency of the United States bicycle industry cannot offset the extremely low wage rates available to bicycle manufacturers in Taiwan and Korea, two countries which in recent years have greatly increased their bicycle exports to the United States. Moreover, foreign producers usually do not have to undertake expenditures for workmen's compensation, occupational safety, pollution control and a vast array of social legislation that increases the cost of doing business in this country.

In studying the bicycle industry, Congress also quickly realized that there was no domestic production of the parts whose duties were suspended by the 1971 legislation. Hence, there existed no U.S. industry that required protection through imposition of a duty on the unavailable parts. With or without the duty, domestic bicycle manufacturers are forced to buy certain foreign-made component parts. Adding an excessive duty to the costs already borne by these companies simply undermines further the U.S. competitive position vis-a-vis foreign-made bicycles—without benefitting any other domestic industry.

---

[1] The four bicycle manufacturer members of BMA include: AMF Wheel Goods Division; Columbia Manufacturing Co., Inc.; Huffy Corporation; Murray Ohio Manufacturing Co. BMA also has thirteen associate members that manufacture components for bicycles.

[2] H.R. 5823 extends the duty suspension on the following bicycle parts; caliper brakes, drum brakes, coaster brakes, two-speed hubs with internal gear-changing mechanisms, three-speed hubs incorporating coaster brakes, three-speed hubs not incorporating coaster brakes, click twist grips, multiple free wheel sprockets, cotterless type crank sets, frame lugs, parts of all the foregoing, and parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for the assembly (with other parts) into the frame and fork of one bicycle (provided for in TSUS item nos. 732.35, 732.38, 732.41, and 734.42).

[3] Pub. L. 91-689 suspended the duty on certain imported bicycle parts from January 1971 through December 31, 1973. Pub. L. 93-490 extended the duty suspension through December 31, 1976; Pub. L. 95-161, through June 30, 1980; and Pub. L. 96-467, through June 30, 1983.

Finally, the duty suspension legislation was necessary to improve the competitive position of the domestic bicycle manufacturing industry. In its report to the Congress in 1970, the Senate Committee on Finance highlighted this need to suspend duties on bicycle parts:

"[This bill] is intended to improve the competitive ability of domestic producers of bicylces by temporarily suspending the duty on imports of certain bicycle parts and accessories thereby reducing their costs . . . The temporary suspension of duty on the bicycle parts and accessories provided for in [the bill] would be beneficial to domestic manufacturers of bicycles particularly in competing with imported bicycles.[4]

PRESENT NEED FOR SUSPENSION OF DUTIES ON BICYCLE PARTS

The reasons presented in past sessions of the Congress for suspending the duty on these bicycle parts are still valid today. Domestic manufacturers are still compelled to rely on foreign suppliers as the source of various bicycle components. Although the duty disparity between bicycle parts and complete bicycles has been somewhat modified as a result of the Tokyo Round of the Multilateral Trade Negotiations, this tariff anomaly persists. Under the 1982 Tariff Schedules, most imported bicycles are dutiable at only 5.5 percent, whereas most imported bicycle parts used by domestic manufacturers to make bicycles in the United States are dutiable at an excessive 11.6 percent.[5] Thus, the Tariff Schedules disadvantage domestic manufacturers of bicycles by 6.1 percent compared to their foreign competitors. They are, in effect, assessed a six percent penalty for producing bicycles in the United States and in turn providing jobs for American workers. It is therefore clear that foreign producers will be the only beneficiaries of legislative inaction.

Indeed, the need for continued suspension of the duty on parts in order to maintain the competitive position of domestic bicycle manufacturers has never been more urgent. The domestic bicycle industry remains under severe pressure from the flood of imported bicycles. It is clear that foreign producers have targeted the United States as their principal export market. In fact, imports have claimed an increasing share of the U.S. market in recent years. Their market share escalated from 16.9 percent in 1979, to 22.8 percent in 1980, and 23.5 percent in 1981. In contrast, domestic shipments of bicycles have declined sharply since 1979, dropping from 8.7 million in 1979 to 6.9 million in 1980 and 6.8 million in 1981. Indeed, the Executive Branch has expressly acknowledged the problems confronting this domestic industry. During the Tokyo Round of the MTN, bicycles were one of the few articles shielded from duty reductions even though they were not subject to import relief. The decision to place bicycles on the "exceptions list" resulted from a careful and comprehensive review of the financial viability of this industry and its vulnerability to increased imports as a direct result of low tariffs. The imposition of a 6.1 percent surtax on the domestic industry's purchases of the very same parts used by foreign manufacturers can have but one effect—further erosion of the domestic producers' ability to compete.

Furthermore, H.R. 5823 is not only necessary to promote the economic well-being of the domestic bicycle industry. Bicycles have and must continue to assist in alleviating two of this nation's most critical long-term problems—energy consumption and environmental pollution. Since the first energy crisis in 1973, Congress has focused increasing attention on the need for more fuel-efficient and pollution-free forms of transportation. The use of bicycles, which are clean, inexpensive and efficient, is, of course, consistent with both of these goals. In view of the increasing acceptance by the public of bicycles as a mode of transportation, especially for commuting, it is inconsistent at best to levy a surtax on domestically produced bicycles. Incentives, not disincentives, are needed to increase bicycle usage.

For these reasons, BMA urges favorable action on H.R. 5823. For these very same reasons, we recommend a further amendment to Item 912.10 of the Appendix to the Tariff Schedules of the United States. We respectfully request that the following language be inserted in that item number after the phrase "frame lugs": "trigger and twist grip controls for use with three-speed hubs." These components are not made in the United States and are also dutiable at substantially higher rates than completed bicycles. Duty-free treatment of these components will aid the import sensitive bicycle industry without harming its domestic suppliers.

---

[4] S. Rep. No. 1536, 91st Cong., 2d Sess. 1; reprinted in 1970 U.S. CODE CONG. & AD. NEWS 6115, 6116.

[5] Most bicycle parts fail within TSUS Item Nos. 732.38 and 732.41 and are assessed at a rate of 11.6 percent ad valorem. Complete bicycles, on the other hand, fall within TSUS Item Nos. 732.02-732.26 and are assessed at rates ranging from 5.5 percent to 11 percent. The vast majority of these imports fall within TSUS Item No. 732.18 ("having both wheels over 25 inches in diameter; valued over $16.66⅔ each") and are assessed at 5.5 percent ad valorem. See U.S. Bureau of the Census, U.S. Imports for Consumption and General Imports, Report FT-246/ Annual 1980.

CONCLUSION

Mr. Chairman, the Bicycle Manufacturers Association of America, Inc. is well aware that domestic companies may someday begin to produce one or more of the bicycle parts currently on the duty suspension list. Importantly, H.R. 5823 was drafted with a view to the development of domestic sources, and therefore it is a bill of limited duration that only extends the duty suspension on these imported parts for another three years. H.R. 5823 merely suspends—it does not eliminate—duties on bicycle parts. Thus, years hence, Congress may reevaluate the wisdom of continuing the duty suspension on parts for which there is an emerging domestic supply. On balance, although this relatively brief extension is necessary to ensure the continued vitality of the domestic bicycle industry, it is not an obstacle to domestic industries that in the future will commence or expand the production of these bicycle parts.

Therefore, BMA urges your expeditious consideration of and support for H.R. 5823.[6] BMA believes that H.R. 5823 is vitally necessary not only to prevent the reimposition of a discriminatory and anticompetitive cost of business on domestic bicycle manufacturers but also to avoid creating an inflationary impact on a mode of transportation that Congress has encouraged.

Thank you very much for your attention and for this opportunity to appear here today to present our views.

Chairman GIBBONS. Robert Clarke?

STATEMENT OF ROBERT A. CLARKE, PRESIDENT, DIA-COMPE, INC., ACCOMPANIED BY RONALD KOLINS, ROSS, HARDIES, O'KEEFE, BABCOCK & PARSONS, CHICAGO, ILL.

Mr. CLARKE. Mr. Chairman, members of the committee, my name is Robert A. Clarke. I am president of Dia-Compe, Inc., in Fletcher, N.C. I have with me Ronald Kolins of the law firm of Ross, Hardies, O'Keefe, Babcock & Parsons, in Chicago, Ill.

I will try to tell my story as briefly as I can.

Dia-Compe is a manufacturer of caliper brakes for bicycles. We employ approximately 100 people. While we are a manufacturer of this product, we do import a major portion of the parts that go into our brakes.

We have been, and I think for a long time in the future will be, a strong proponent of the duty-free bill that passed first in 1970 and has passed three or four times since.

We are highly in favor of that bill for three strong, specific reasons. First of all, because we import the majority of our parts we need this duty-free status. We need it badly.

Second, the bicycle industry needs all the help it can get in this country; and third, we are faced with a situation whereby, if this bill were to fail some day, if it were not to be continued on, we would face very, very serious and unequal competition from emerging countries like Taiwan, Korea, India, Hong Kong, China, all of whom enjoy favored nation status. They would then be able to bring this product, caliper brakes, into this country under GSP, under the general system of preferences, with no duty, while we would be compelled to pay duty. I can tell you gentlemen, if that were to occur, we would be out of business in a matter of weeks.

---

[6] Although duty suspension legislation enacted in 1977 (Pub. L. 95-161) expired on June 30, 1980, its successor legislation (Pub. L. 96-467) was not enacted until October 17, 1980, fully three and a half months later. Domestic manufacturers that imported bicycle parts were required to post duties totalling many millions of dollars during the interval. Congress later granted retroactive duty suspension treatment to those bicycle parts entering between July 1 and October 17, 1980. In order to avoid this enormous burden on domestic manufacturers, BMA therefore respectfully urges the Committee to act quickly and favorably upon H.R. 5823.

In addition to strongly supporting the passage of this bill, we are proposing a very minor amendment designed to mitigate what is now an existing tariff inequity of great importance to my company.

Before I get to that amendment let me explain in some detail the background.

In 1977, when the duty bill was passed, Congress saw fit to add the words, "and parts." Certain bicycle components and parts.

This has led to a certain disagreement of just exactly what was meant by "parts" between my company and the customs people at the ports where we import our parts.

As it turns out, the net effect is that we are paying duty on a number of parts even though the legislation specifically includes duty suspension for "parts" because the Customs Service applies a narrow definition to the word "parts".

Very specifically, we are proposing and hope that this committee will favorably go along with our hope that certain cable and casing that is used in the manufacture of bicycle caliper brakes would be permitted to come in duty free.

That is the amendment that we would like to add on this bill.

We have discussed this with the Customs Department and they have objection to the amendatory language we will seek.

The bicycle manufacturers do not object to this. I don't believe the Schwinn Co. objects to it. I can't imagine anyone objecting to it.

So, the sum and substance of my little speech here is that we would like very much to have your consideration and acceptance of this amendment.

[The prepared statement follows:]

STATEMENT OF DIA-COMPE, INC., PRESENTED BY ROBERT A. CLARKE, PRESIDENT

SUMMARY

Dia-Compe, Inc. strongly supports passage of H.R. 5823. In addition, and without in any way seeking to compromise that passage, I will work with the Subcommittee to have an amendment introduced which would specifically include bicycle caliper brake cable and casing as covered by the duty suspension. The U.S. Customs Service has been made aware of this proposed amendment and concluded that it poses no administrative problems. Customs will not oppose it in any way. Its purpose is to mitigate the tariff anomaly which finds Dia-Compe paying substantial duty on a number of its caliper brake parts while its foreign competitors pay no duty at all simply because their brakes come in assembled. The present situation is grossly unfair to Dia-Compe, the only American producer. The amendment would significantly mitigate that unfairness and competitive disadvantage.

STATEMENT

Mr. Chairman and members of the Subcommittee, Dia-Compe, Inc., is a small company in Fletcher, North Carolina, which is in the business of making caliper brakes for bicycles. That is its only business. I am Robert A. Clarke, the president of the company. I have come before you for two reasons:

(a) To urge as strongly as possible that this bill to extend duty suspension on bicycle parts including brakes be passed, and

(b) To request that a brief amendment be made to the bill to prevent my company from suffering Congressionally unintended but very unjust competitive harm as a result of enactment.

To put my position and my comments in perspective, let me tell you something of my company.

Dia-Compe is an American corporation engaged solely in the business of producing bicycle caliper brakes and, in turn, selling those brakes to American bicycle manufacturers. Dia-Compe is, in fact, the only domestic maker of caliper brakes, its competitors being foreign concerns which export fully assembled caliper brakes to this country. The company is located in a rather rural town in western North Carolina, where it employs over 100 workers. It came into existence only seven years ago, in 1975. Prior to 1975, Dia-Compe's parent company shipped fully assembled caliper brakes into the United States as its competitors continue to do. The parent chose to open a plant here for a variety of reasons, including the expectation of creating good will and to provide superior service capability for its American customers.

Ever since its creation, Dia-Compe has imported most of the parts required for the production and assembly of its caliper brakes. After assembling the brakes from those parts, the brakes are sold to Dia-Compe's customers, the American bicycle manufacturers. Even though it is a domestic company, Dia-Compe supports duty suspension for two reasons.

First, duty suspension lowers the costs of American bicycle manufacturers, thereby increasing their ability to sell bicycles in the marketplace and to meet the competition from imported bicycles. The growth and well-being of the American bikemakers directly impact Dia-Compe as a supplier to the industry. If they don't sell bikes, we don't sell brakes.

Second, to the extent that Dia-Compe can import its "parts" in sets comprising essentially complete caliper brakes, its importations are substantially duty free under duty suspension. If, however, this duty suspension was allowed to expire, we would pay full duty, but many of our foreign competitors would still be able to import their brakes duty free as a function of the Generalized System of Preferences. Bicycle caliper brakes are eligible for duty free treatment pursuant to the GSP, and the country of origin of many foreign brakemakers are developing countries under the GSP, such as Taiwan, Korea, Hong Kong, India, and others. In fact, even China is expected to soon be added to the list.

Thus, elimination of duty suspension would put Dia-Compe to an unbearable competitive disadvantage and it would go out of business.

While therefore a strong advocate for duty suspension, there is one aspect of this bill which requires modification. As stated, Dia-Compe is an importer of the parts required to make caliper brakes. To the very substantial extent it cannot import those parts in sets, the parts have been and would ordinary be subject to duty. Dia-Compe would thus be competitively harmed because it would pay duty on its parts while its foreign competitors pay no duty on their assembled brakes. In essence then, Dia-Compe would be penalized for being an American company.

However, Congress, which the legislative history shows will suspend duty only when it finds that the beneficiary domestic industry requires competitive protection and that no other domestic industry or company will be competitively harmed thereby, included coverage for "parts" in its 1977 extension of this duty suspension.[1] For the first time since duty suspension or bicycle components was first enacted in 1970,[2] "parts" of those components were specified by Congress for duty free treatment also. Thus, in considering the 1977 bill, Congress not only strove to assure that it would not cause any injury to an American company or workers, it also clearly expressed its intent that suppliers of parts to the domestic bicycle manufacturing industry compete under the same tariff treatment.[3]

Congress cannot be assailed with the charge that it would allow Dia-Compe to suffer competitive injury as its reward for assembling its production in the U.S. and providing a livelihood for almost 100 north Carolina families. Yet, the application by the U.S. Customs Serivce of that suspension in TSUS (Appendix) 912.10 was contrary to what I see as the clear intent of Congress; was contrary to all notions of fairness; and caused and continues to cause very substantial competitive harm to my company. Customs has given a technical and narrow definition to the word "parts" as used in the present duty suspension law. Thus, claiming that TSUS

---

[1] Public Law 95-161, November 8, 1977.

[2] Public Law 91-689, January 12, 1971.

[3] . . . the committee believes the economy as a whole, and the domestic manufacturers and their employees in particular, would benefit most if domestic bicycles are more competitive with foreign imports and parts suppliers are required to compete for sales under the same tariff treatment. Senate Report No. 95-420, 3 U.S. Code Cong. & Admin. News (1977), 95th Cong., 1st Sess. at 3381-3382.

Headnote 10(i)(j) defines "parts" to include, in essence, only those items unique to caliper brakes, Dia-Compe has been and is required to pay duty on numerous imported caliper brake parts such as caliper brake cable, caliper brake cable sheathing, and various nuts, bolts, screws, and other fasteners. We, therefore, are paying large sums in duty while our foreign competitors pay not a penny.

This problem can be significantly mitigated by amending H.R. 5823 to specifically provide duty suspension for caliper brake cable (sometimes referred to as inner wire) and casing or plastic sheathing for that cable. We will work with this Subcommittee towards the introduction of such an amendment at the appropriate time. The amendment will provide that the following italicized material be added to TSUS Item 912.10: ". . . parts of all the foregoing *including cable or inner wire for caliper brakes and casing therefore, whether or not cut to length and . . .*"

This proposal, while not totally curing the tariff inequities inadvertently imposed upon Dia-Compe, would at least mitigate that inequity to a much more manageable proportion.

I know of no U.S. business or governmental interest which will be compromised by or will find this proposal objectionable. In fact, it has been considered by the U.S. Customs Service and found not to present any administrative problem at all. Customs does not oppose this amendment in any way. The modification will, on the other hand, eliminate a gross unfairness to my American company, an unfairness which has seriously impacted our ability to compete on equal terms with our foreign competitors.

I urge passage of H.R. 5823 and ask that, at the appropriate time and after its introduction, you give favorable consideration to this amendatory language.

Thank you for this opportunity to express my views and the needs of my company.

Chairman **Gibbons**. All right, sir, before we all depart, I will ask the people whether they are opposed to your amendment or not but we will hear from the last witness.

STATEMENT OF RITCHIE T. THOMAS, COUNSEL, SQUIRE, SANDERS & DEMPSEY, ON BEHALF OF ABS INDUSTRIES, INC.

Mr. **Thomas**. Mr. Chairman, My name is Ritchie Thomas. I am a member of the law firm of Squire, Sanders & Dempsey.

I appreciate the opportunity to appear here today on behalf of ABS Industries, Inc. to express its concerns with respect to H.R. 5823.

I have submitted a prepared statement for the record and will summarize my remarks.

ABS Industries has five manufacturing plants located throughout the Midwestern United States. A very substantial part of its business is the manufacture and sale of bicycle parts, including bicycle cranks.

ABS is over 100 years old and began production at the turn of the century. For the past several years its bicycle product base has been eroded by foreign competition as U.S. duties on bicycle parts have been steadily reduced.

Like many manufacturers, ABS is struggling in a depressed economy. It is entering its third year with domestic production levels 30 percent below the previous 5-year average. In 1981, it lost money.

Against this background, ABS is troubled by the proposal to continue to include bicycle crank sets and parts in a 3-year extension of the bicycle parts duty suspension legislation, an extension that will continue the suspension through June 30, 1986.

ABS has two specific concerns. First, the "cotterless type crank sets" on which duties are currently suspended are crank sets of the kind commonly known as the European-type cotterless crank. As noted in the Senate Finance Committee report on the act first incorporating these crank sets in the duty suspension legislation, cotterless type cranks historically have not been avaialble from U.S. sources.

The cranks included in the suspension provisions are readily distinguishable from other kinds of bicycle crank sets. In particular, they are distinct from American one-piece bicycle cranks. Cranks of this kind, and their parts, have long been manufactured in the United States and were never included to be included in the duty suspension.

In spite of the clear and well-known distinction between these kinds of bicycle cranks a problem has arisen with importers attempting to enter single-piece American-type bicycle cranks under the duty suspension provision.

The U.S. Customs Service recently rejected this attempt to abuse the duty-free provisions. Nevertheless, it is essential that the legislative history of any duty suspension extension that includes cotterless-type crank sets state expressly that the sets and parts on which duties are suspended do not include American-type single-piece crank sets or parts.

We are pleased to see that the comments submitted for the record by the Schwinn Bicycle Co., support this request.

Second, cotterless crank sets of an inexpensive variety have begun to be manufactured abroad and imported at prices low enough to compete directly with single-piece cranks. In the past, cotterless cranks were associated with lightweight raising bicycles costing $300 or more. The lower price, mass-merchandised cotterless cranks now appearing on the market are being used with less expensive racing bicycles retailing typically in the $150 to $170 range; bicycles that would otherwise use the single-piece cranks available from ABS and others domestically. Moreover, ABS is considering the eventual production of cotterless cranks, even including the expensive, alloy cranks for which the duty suspension was originally intended.

Legislative history indicates that Congress intended to limit the suspension of duty to bicycle components not produced in substantial volume in the United States. The theory is that if a U.S. bicycle manufacturer must look abroad for a source of supply of some components, the customs duties on the components appropriately may be suspended in an effort to help the manufacturer compete more successfully with the foreign bicycle producers. On the other hand, where a U.S. product is available, that rationale does not apply.

ABS has a strong interest in the maintenance of the ability of its customers, the U.S. bicycle manufacturers to compete successfully with foreign manufatured bicycles. However, that interest remains only for so long as the bicycle manufacturers continue to use available domestic components. If the bicycle manufacturers move in the direction of becoming mere assemblers of foreign parts, then the community of interest disappears and the merits of the bicycle parts duty suspension must be reassessed.

That point has not yet been reached. The purpose of our appearance before the subcommittee is not to urge elimination or modification of the provision for cotterless crank sets in H.R. 5823. We support adoption of the bill.

Our intention is simply to alert the Congress to our concerns, so that there will be no surprise if in the future ABS must oppose a still further extension of the duty suspension on cotterless cranks, beyond 1986—by which time the duty disparity between bicycles and parts to which the bicycle manufacturers have referred today largely will have been eliminated. We hope that it will never be necessary to voice such opposition, but that if it is, Congress will be responsive to our concerns.

At this time, we wish merely to make a record that will make it clear to foreign bicycle crank manufacturers who may be considering targeting our markets for exploitation that the U.S. suspension of duties on cotterless cranks is not necessarily a permanent part of the landscape.

That concludes my statement.

[The prepared statement follows:]

STATEMENT OF ABS INDUSTRIES, INC., PRESENTED BY ITS COUNSEL

Mr. Chairman and members of the Subcommittee: my name is Ritchie T. Thomas, and I am a member of the law firm of Squire, Sanders & Dempsey. I appreciate the opportunity to appear today on behalf of ABS Industries, Inc., of Ashtabula, Ohio, to express its concerns with respect to H.R. 5823, a bill extending the suspension of duties on certain bicycle parts.

ABS Industries is a publicly-held company, which has five manufacturing plants located throughout the midwestern United States. It has a stamping plant in Buffalo, New York, selling 60–70 percent of its production to the bicycle industry; a cold forging plant in Malvern, Ohio; a hot forging press plant in South Bend, Indiana; a hot forging impactor plant in Ashtabula, Ohio, with 30 percent of its sales to the bicycle industry; and a cold forging plant in Clarksville, Tennessee, all of whose products are sold to the bicycle industry.

ABS is over 100 years old, and began production of bicycle parts at the turn of the century. Over the past several years, however, its bicycle product base has been eroded by foreign competition, facilitated by the Kennedy and Tokyo Round reductions of the tariffs from 30 percent to ten percent or six percent, and in some cases the total suspension of duties. Partly as a result of the duty reduction schedule, ABS liquidated its Crane Edmund facility, which in 1978 principally produced bicycle pedals. The closing resulted in the loss of approximately 75 jobs and sales for ABS of over $5,000,000. In 1982, ABS discontinued the manufacture of one-piece cranks at its Ashtabula forge.

Like many U.S. manufacturers, ABS is struggling in a depressed economy; it is selling in a bicycle industry that is entering its third year with domestic production levels 30 percent below the previous five-year average. In addition, the world bicycle market is depressed, with widespread price concessions being given—and possibly "dumping" taking place—on component parts and completed and assembled bicycles. ABS' sales and profits from continuing operations were $38,474,000 with a profit of $164,000 in 1980, and $44,107,000 and a loss of $3,651,000 in 1981.

Against this background, ABS is troubled by the proposal to continue to include cotterless type bicycle crank sets and parts in a three-year extension of the bicycle parts duty suspension legislation an extension that will continue the suspension through June 30, 1986. ABS has two specific concerns.

First, the "cotterless type crank sets" on which duties are currently suspended are crank sets of the kind commonly known as the European-type cotterless crank. These are three-piece crank sets consisting of two crank arm pieces (to one of which a sprocket assembly is attached) and an axle assembly, to which the crank arms are attached by means other than a cotter pin. As noted in the Senate Finance Committee Report on the act (Public Law 95–162) that incorporated these crank sets in the duty suspension legislation, cotterless type cranks historically have not been available from United States sources. S. Rep. No. 95–420, 95th Cong., 1st Sess. 4 (1977).

The crank sets included in the suspension provisions are readily distinguishable from other kinds of bicycle crank sets. In particular, they are distinct from American one-piece bicycle cranks, in which a single metal forging comprises the axle and both crank arms. Crank sets of this kind, and their parts, have long been manufactured in the United States and were never intended to the included in the duty suspension. Cotterless type crank sets are also distinguishable from so-called European cottered cranks, which are usually made of steel in three pieces, with the crank attached to the axle by large cotters.

In spite of the clear and well-known distinction between these kinds of bicycle cranks, a problem has arisen with importers attempting to enter single-piece American-type bicycle cranks under the duty suspension provision. The U.S. Customs Service Headquarters Office only a few days ago issued a decision rejecting this attempt to abuse the duty-free provisions. Nevertheless, in view of this experience, it is essential that the legislative history of any extension of the suspension that includes cotterless type crank sets state expressly that the sets and parts on which duties are suspended do not include American-type single-piece crank sets or parts.

Second, we understand that cotterless type crank sets of an inexpensive variety have begun to be manufactured abroad (principally in the Far East) and imported at price ranges low enough to begin to compete directly with single-piece cranks. Typically, a single-piece crank set with hardware costs roughly $5. ABS has confirmed that cotterless type crank sets have begun to be imported at prices as low as $9, and there are unconfirmed reports that imports at even lower prices are possible. In the past, cotterless type crank sets were imported for use with light-weight racing bicycles costing $300 or more. However, the lower priced, mass-merchandised cotterless crank sets now being imported under the duty suspension provision and appearing on the market are being used with less expensive racing bicycles retailing typically in the $150 to $170 range; bicycles which would otherwise use the single-piece crank sets available from ABS and others domestically. Moreover, ABS is continuing to refine and upgrade its products, and is considering production of cotterless type cranks, even including the expensive, alloy cranks for which the duty suspension was originally intended.

The legislative history of the duty suspension provision indicates that Congress intended to limit the suspension of duty to bicycle components that were not produced in substantial volume in the United States. The theory, as we understand it, is that if a U.S. bicycle manufacturer must look abroad for a source of supply of some components, the Customs duties on the components appropriately may be suspended in an effort to help the manufacturer compete more successfully with foreign bicycle producers. On the other hand, where a U.S. product is available, that rationale does not apply, and duty suspension is inappropriate. That is the case when the imported product penetrates the markets of a domestically manufactured component.

ABS has a strong interest in the maintenance of the ability of its customers, the U.S. bicycle manufacturers, to compete successfully with foreign-manufactured bicycles, both in the United States and in export markets. However, that interest remains only for so long as the bicycle manufacturers continue to use available domestic components. If the bicycle manufacturers move in the direction of becoming mere assemblers of foreign parts, then the community of interest disappears and the merits of the bicycle parts duty suspension must be reassessed. And in that connection, we submit that the interests and concerns of the workers and firms, such as ABS, engaged in component manufacture must be taken into account.

That point, however, has not yet been reached. The purpose of our appearance before the Subcommittee is not to urge the elimination or modification of the provision for cotterless crank sets in H.R. 5823. Our intention is simply to alert the Congress to our concerns, so that there will be no suprise if (as a result of changed circumstances) ABS finds in the future that it must oppose a still further extension of the duty suspension on cotterless cranks, beyond 1986. We hope that that will never be necessary, but that if it is, Congress will be responsive to our concerns. At this time we wish merely to make a record that will make it clear to foreign bicycle crank manufacturers who may be considering targeting our markets for exploitation, that the U.S. suspension of duties on cotterless cranks is not necessarily a permanent feature of the landscape.

Chairman GIBBONS. Thank you, sir.

Mr. Clarke, we have a request of the committee to amend the bill to include——

Mr. CLARKE. Caliper brake inner wire or cable and casing. That is for the cable assembly that goes between the lever and the brake.

Chairman GIBBONS. Do you all have objection to his proposal?

Mr. SHANNON. We have no objection.

Mr. LANDRY. Schwinn has no objection.

Mr. **Clarke**. Counsel reminds me that I minimized the importance of this to my company. I said it is a minor amendment. Actually, it is of major importance to my company. Although all the other people who bring brakes into this country bring them in in complete sets already assembled and pay absolutely no duty, I bring my parts in and do the assembly here but I pay duty, so I am put at a distinct competitive disadvantage.

This amendment would help equalize that.

Chairman **Gibbons**. Where do most of these parts come from?

Mr. **Clarke**. Most of my parts come from Japan.

Chairman **Gibbons**. And what about the rest of you?

Mr. **Shannon**. A lot come from Germany, a lot come from Japan, some come from Taiwan.

Mr. **Landry**. Italy as well, on the higher priced items.

Mr. **Shannon**. I think, Mr. Chairman, if we were in the predicament that Congressman Bailey alluded to earlier today, and that is there are very few parts suppliers in the United States and if they keep diminishing, as a result we do have to go abroad to get parts but we have maintained that if the part is made in the United States that we will buy it or try to buy it and then we would not ask for duty suspension on any parts that are made in the United States.

Mr. **Landry**. If I may add one point, I think the history of the duty suspension on bicycle parts bears that out as well. When derailleurs came on line in the United States they were taken off. The same thing with rims; they were taken off. Click sticks as well. We tried to be sensitive to this once production is on line.

Chairman **Gibbons**. I wish you all would develop a bicycle that wouldn't get stolen so easily.

Mr. **Clarke**. We would like to, too.

Chairman **Gibbons**. I sometimes think you all make them easy to steal so you have to buy more of them. I just had mine stolen, that is the reason why I am complaining.

But I learned when I was in China they even steal them in China. If you all could crack that market you would really have a market for bicycles.

Any other questions?

Thank you for coming.

Mr. **Clarke**. Thank you.

Chairman **Gibbons**. Mr. Lubick, we are going to take you real quickly.

STATEMENT OF DONALD C. LUBICK, COUNSEL, ON BEHALF OF J. C. BROCK CORP., BUFFALO, N.Y., AND DRAPER-KING COLE, INC., MILTON, DEL.

Mr. **Lubick**. Thank you, Mr. Chairman.

With me is Ms. Goodman of my office. I promise to be real quick.

I would simply like to summarize briefly what the bill proposes and the problem to which it responds.

The bill asks for a temporary 3-year suspension of the duty on imported bulk carrots during a part of the year from August 15 of 1 year to the following February 15 if the carrots are in very large packages, over 100 pounds.

A further suggestion has been made to insure that there would be no increase in imports to adversely affect U.S. growers, that this suspension be limited to the historical volume of bulk imports—which is somewhere around 17,000 tons a year—and that would be acceptable to us also.

The problem is a peculiar one. It arises out of a change in the 1979 act of the duty on imported bulk carrots from a 6-percent ad valorem duty which existed before to a half cent per pound based on weight.

Ostensibly, at the time of this change the negotiators thought they were raising the U.S. tariff on imported carrots from Canada. However, the unintended effect was to give a large break to Canadian packagers who are responsible for about 80 percent of carrot imports into the United States.

While there was an increase in the tariff, what was intended as an increase was a decrease in the tariff on the packagers. It was an increase only on the U.S. packers importing bulk carrots from Canada.

The reason is that the Canadian packagers no longer, under the shift to a tariff based on weight, pay any tariff on their value added. That amounts to roughly $160 a ton.

So, whereas, they were paying about $19 a ton before, based on the value of the carrots, now the tariff is based on weight only. It is about cut in half.

In fact, we now see an unusual situation. Some of these Canadian packers are actually importing U.S. carrots during the off-season into Canada duty free. Canada suspends its duty for most of the year. Then they are packing them and exporting them back into the United States duty free because that weight of carrots is U.S. origin.

So the U.S. packers lost their position when the value added was eliminated unintentionally. But, moreover, the U.S. packers now have a separate and second disadvantage because they have to pay tariff by weight. They pay on the dirt and they pay on the throwaways which are about a third of the usable carrots.

And as a result, the U.S. packers are now paying duty on a greater volume of the raw material product than the Canadian exporters are paying on the finished product.

Now, the ideal solution would be to go back to an ad valorem equivalent. As an interim solution we have suggested to try to restore the relative position of the packers and processors in the United States, vis-a-vis the Canadians narrowly defined bill.

Incidentally, the STR, while it has opposed this bill indicating it wants to get something for it as a bargaining chip, has indicated that this is on their list and we would suggest that the 3-year suspension period would enable them to go forward with the negotiations they want.

The bill, therefore, would apply only to the period between August 15 and February 15, which largely eliminates most of the growing season across the Southern United States.

It would be limited to imports over 100 pounds of bulk carrots and again we suggest that this takes care of all the Mexican production which has to come in in packaged form because of certain diseases contained in Mexican soil. In essence, the bill would result in no shift to Canadian production as opposed to U.S. production because the trucking and transportation charges are substantially more a factor than the tariff.

It would simply restore the relative position of the American packers versus the Canadian packers.

Now, it has been suggested to make sure that there is no harm to the American agricultural interests that there be a limit placed on the volume which could be imported under the suspended duty. Based on the historical amount of carrots that have been imported that would be somewhere around 17,000 to 20,000 tons a year. That, of course, is perfectly acceptable to us.

There would be no shift, again, as I indicated, because cartage or transportation is much more of a factor than the tariff.

If there are any questions I would be glad to address them.

[The prepared statement follows:]

STATEMENT OF DONALD C. LUBICK

INTRODUCTION AND RECOMMENDATIONS

Chairman Gibbons and members of this subcommittee, I appreciate the opportunity to appear here today on behalf of the J. C. Brock Corporation of Buffalo, New York and Draper-King Cole, Inc., of Milton, Delaware, to urge favorable action by the subcommittee on H.R. 4501. H.R. 4501 would provide until June 30, 1985 for a partial suspension (from August 15 to February 15 each year) of the duty on bulk fresh carrots imported in packages over 100 pounds into the United States. The Bill could also be modified to limit the volume of imports eligible for suspension to historical levels.

THE EFFECT OF THE 1980 DUTY CHANGE ON AMERICAN PACKAGERS

The purpose of H.R. 4501 is to alleviate an unfair tariff disadvantage to American packers that resulted from the change in 1980 from a 6 percent ad valorem duty on imported fresh carrots to a specific rate of .5 cents per pound. This change was enacted as part of the Trade Agreements Act of 1979 without the benefit of public notice and comment and expert advice from the International Trade Commission (ITC). While the purpose of the change was to increase the U.S. duty on imported fresh carrots, paradoxically the unintended effect has been to reduce the effective duty paid on the vast majority of imported fresh carrots—specifically, packaged carrots—because it eliminated entirely all duty on value-added in packaging fresh carrots.

For example, the 1979 6 percent tariff on a typical 50 pound unit of packaged carrots costing apprixmately $8 at current prices would be 48 cents. At the new tariff rate of .5 cent per pound, however, the tariff is only 25 cents—a reduction of 48 percent. The result has been an increased percentage of carrot imports from Canada in packaged form from approximately 67 percent to approximately 80 percent of imports. Canada accounts for 90 percent of all U.S. carrot imports.

On the other hand, a small group of American packagers and processors have incurred a sharp increase in the duty on the raw product they import from Canada to process and package for American consumption. For example, for the packager to obtain 50 pounds of carrots suitable for packaging, it is necessary to import 66⅔ pounds of bulk carrots; the 1979 duty on this amount of bulk carrots (with a typical cost of $4) would be 24 cents; at the new duty rate, the tariff is 33⅓ cents—or an increase of 39 percent. In other words, since the American packager must pay duty by the weight of imported bulk carrots (which includes the dirt and culls that must be thrown out) it pays a higher duty on the raw product than the Canadian packer pays on the finished product. The Canadian packer has the advantage of being able to separate out the dirt and culls before the carrots are weighed for tariff purposes and of not paying any duty on the value-added in packaging the carrots—thus receiving a two-fold advantage when compared to prior law. As a result, the tariff change has placed American businesses at a competitive disadvantage with Canadian packagers of carrots; and in at least one case, an American packager has been forced out of business.

OTHER PROBLEMS WITH THE NEW DUTY RATE

In addition, the 1980 tariff change did not accomplish its stated policy objective of harmonizing U.S. and Canadian tariffs. Apparently, during negotiations with Canada, U.S. representatives sought a change in the Canadian duty from a specific to an ad valorem rate. When Canada refused to agree to such change, the decision was made to change the U.S. duty to a specific rate from an ad valorem rate. For at least three reasons, this change has failed to fullfill the stated purpose of harmonizing U.S. and Canadian tariffs on fresh carrots.

First, the Canadian tariff of 0.5 cents per pound on bulk carrots is only a partial year tariff. The Canadian revenue authority may impose this duty only for a maximum of 40 weeks during the year (which can be divided into two separate periods) and at its discretion may put the duty into effect for any period less than 40 weeks. For this purpose, Canada is divided into three different regions, and the duty may be imposed or lifted at different times in each of these regions. Thus, in Region II, which covers the areas of Quebec and Ontario and accounts for most (65 percent) of Canadian imports of bulk fresh carrots from the United States, the Canadian government has declared their tariff to be in effect for only 6 weeks in 1978, 3 weeks in 1979, 12 weeks in 1980 and for 6 weeks during 1981. And overall in Canada, which accounts for 84 percent of the U.S. carrot exports to other countries, 82 percent of all fresh carrots from the U.S. were allowed to enter duty free in 1979. In Region II for 1979, 97 percent of bulk carrots imported into Canada were duty free. The total Region II duty actually collected on bulk carrots was Can. $6,357. At a true rate of 0.5 cents per pound, it would have been Can. $193,625. In Region II, for example, for 1979 the average rate of duty on U.S. carrots imported in 1979 into Canada was Can. $0.328 per ton. The comparable 1980 U.S. duty rate would be U.S. $10 per ton on imports of Canadian carrots. This hardly can be considered a harmonization of U.S. and Canadian tariff rates.

Second, not only did the 1980 change fail to achieve harmonization in the specific duty applicable to bulk carrots, it also ignored the additional Canadian ad valorem duty of 5 percent applicable to dutiable imports of packaged carrots. Thus, the Canadians to protect their packagers have a special ad valorem duty applicable to products of U.S. packagers, the very type of duty that the Canadians successfully persuaded the U.S. to drop.

Third, the 1980 change has produced disparities in the degree of available tariff protection that did not previously exist. Approximately 75 percent of fresh carrot exports from the U.S. to Canadia are in bulk form, for which the specific duty results in a higher duty, and hence greater tariff protection, than the ad valorem duty. By contrast, the vast majority of fresh carrot exports from Canada to the U.S. are in packaged form, for which the change from the ad valorem to the specific duty resulted in a lower tariff and hence less tariff protection for U.S. growers.

In summary, the change in the U.S. tariff rate on carrots from an ad valorem to a specific duty has had what can only be called a perverse effect. These problems might have been avoided if prior to the change, the Trade Act procedures for obtaining public comments and expert advice from the ITC had been followed. The present focus, however, must be on what can be done now to resolve the problems that have been created by the 1980 duty change.

REASONS FOR H.R. 4501

Quite clearly, the appropriate way to solve the problems just described would be to restore the pre-1980 *ad valorem* duty or to parallel the Canadian system of an additional 5 percent duty on packaged carrots. This would solve not only the problems of American packagers and processors who face an unfair tariff burden under the new tariff structure, but also the concerns that we understand have been expressed by American growers about the increased imports of packaged carrots caused by the 1980 tariff reduction. Under the restrictions imposed by the GATT, however, it is not practical to switch back to the ad valorem system in the short run. Accordingly, H.R. 4501 is an interim solution that at least will enable American packagers and processors to compete on an equal footing with Canadian packagers until trade negotiators are able to work out a long-term solution to the problems created by the 1980 change.

DESCRIPTION OF H.R. 4501

H.R. 4501, which has been introduced by Congressmen Nowak and Kemp would provide for a partial year suspension (from August 15 to February 15 of each year) of the duty on fresh carrots imported in bulk packages weighing more than 100 pounds. This suspension would apply only for a temporary three year period (until June 30, 1985). The changes contained in this legislation would alleviate the unfair tariff burden on American packers and processors by restoring the pre-1980 tariff differential between bulk and packaged carrots and provide more consistency between the U.S. and Canadian tariff treatment, without prejudice to American growers.

By providing a partial year suspension, such legislation would more nearly harmonize the U.S. tariff with the Canadian tariff which is suspended for a significant portion of the year. And by restoring the tariff differential between bulk and packaged carrots, the Bill would provide for a tariff structure similar to the Canadian system which contains a differential between bulk and packaged carrots.

Moreover, for several reasons such legislation would have a negligible impact upon American growers and packagers.

First, at least 98 percent of carrots imported into the United Sates come from Canada and Mexico and packaged carrots, on which the duty would be retained, account for virtually all of the imports from Mexico and in 1980 over 80 percent of imports from Canada.

Second, in Florida and Texas, two of the major U.S. producing states, the principal growing season is during January to May of each year, which overlaps for only 1½ months with the months in which the suspension would apply. Moreover, the cost of shipping carrots from Texas or Florida (approximately $60-$70 per ton) for a packager in New York that imports carrots from Canada is not economical even with the increased tariff. Thus, the principal potential competition for growers in Texas and Florida is from growers in Mexico, virtually all of whose exports to the U.S., as noted above, would still be subject to duty under the Bill. Similarly, while the growing season in California is year-round, competition from Canada is not a serious factor because of transportation costs and again the retention of the duty on packaged carrots would protect California growers against competition from Mexico. Insofar as the other significant growing States of Michigan, Wisconsin and New York are concerned, growers in these states often also are packagers and thus would benefit by such legislation. If necessary, however, the Bill could be narrowed even further to ensure that there would be no adverse effect on growers in these areas.

ADDITIONAL MODIFICATION FOR COMMITTEE CONSIDERATION

Although the Bill has been narrowly drafted to cover only bulk carrots for a limited period each year, we understand that a few growers have expressed concern that the partial year suspension may result in additional imports of bulk carrots from Canada, to their deteriment. Accordingly, the Committee may wish to consider a suggestion that the relief under H.R. 4501 be further limited to a fixed volume of 17,000-20,000 tons of bulk fresh carrots. This limit is approximately the historical level of bulk imports. The eligible amount under this limitation would be less than 2 percent of U.S. production.

Since this is the volume of bulk carrots that would be imported even at the existing duty rate of 0.5 cents per pound, the limit would ensure that the duty reduction would not result in increased imports and that its only function would be to make American packers more competitive with the Canadians. (The reason that this volume will be imported even at the existing duty rate is that the cost of the duty is still less than the cost of transporting comparable carrots from other parts of the country.)

Such a change would be entirely acceptable to the proponents of H.R. 4501 and should full alleviate any concerns that American growers might have about the Bill causing additional imports of bulk carrots.

CONCLUSION

The 1980 change from an ad valorem to a specific rate of duty in carrots represented the only tariff increase in the Trade Agreements Act of 1979 that was enacted without the benefit of public notice and comment and expert advice from the ITC. The increase has imposed a substantial, and apparently unintended, burden on American packagers competing with packagers in Canada to the detriment of the business operations of these companies and of our economy. It has meant a significant loss of jobs to employees of U.S. concerns placed at a competitive disadvantage. The question is not one of competition on an equal basis. The change in the U.S. law has forced U.S. packagers actually to shoulder a higher U.S. tariff burden than their Canadian competition. The change has not fulfilled the basic purpose of harmonizing U.S. and Canadian tariff rates. For these reasons, I believe that H.R. 4501 represents an appropriate and urgently needed short term solution to these problems and I urge the Subcommittee to act favorably on this Bill.

Chairman GIBBONS. You handled the carrots as well as you did those billions when you were down here before.

Mr. LUBICK. That is another point—the lost revenues for this would be only $150,000, which even under the old rules would be negligible.

Chairman GIBBONS. We could round that one out.

Mr. LUBICK. We could drop it down to zero, I would say.

Chairman GIBBONS. Are there other questions for Mr. Lubick?

Well, perhaps you ought to do a little more negotiating with the STR over there right now.

Mr. LUBICK. We have tried. They regard what we have offered them as a great bargain but the only thing is now to get the Canadians to ask for it.

Chairman GIBBONS. Are they trying for border TV or something?

Mr. LUBICK. I don't think they will do it for border TV.

Chairman GIBBONS. Thank you very much. I am sorry you had to sit there so long.

Mr. LUBICK. It has been very enlightening. I learned there is a whole new world out there.

Chairman GIBBONS. I won't ask you to tell me which one you think is more rational.

Mr. LUBICK. I don't know if I could answer that question, Mr. Gibbons, either way.

Chairman GIBBONS. Thank you very much.

We miss you and we respect you.

We will take up two of Mr. Vander Jagt's bills, H.R. 4642, some chemical I can't pronounce, and H.R. 5554, the clock radio bill, as soon as we get back.

[Brief recess.]

Chairman GIBBONS. We are going to take up two of Mr Vander Jagt's bills now. The first is H.R. 4642. We have representatives from the Dow Chemical Co. here and we hope you will tell us all about this chemical, how to pronounce it and what it does.

STATEMENT OF CHARLES D. DEVER, MANAGER, PROCESS PRODUCTS, DOW CHEMICAL, U.S.A., ACCOMPANIED BY RAFAEL MIGUEL, DIRECTOR, INTERNATIONAL AFFAIRS, WASHINGTON OFFICE

Mr. DEVER. Thank you, Mr. Chairman. I am Charles Dever, Manager of Process Products, Dow Chemical, U.S.A. With me is Rafael Miguel, the director of international affairs in our Washington Office.

H.R. 4642, if enacted, would suspend the duty on imports of isomeric mixtures of ethylbiphenyl until June 30, 1985. This legislation would remove a severe economic restriction to the growth of a promising new product, thereby increasing the probability of eventual domestic production.

On this basis, our company supports the enactment of the bill.

Ethylbiphenyl is an organic chemical produced synthetically from petroleum. Commercial grades are generally a mixture of meta and para isomers.

The primary use of ethylbiphenyl is as an ingredient in high temperature heat transfer fluids for industrial processes.

U.S. production of high temperature heat transfer fluids totaled an estimated 25 million pounds in 1980. Five million pounds were exported. The U.S. output of these fluids is projected to grow to 36 million pounds by 1985.

In 1980, our company introduced a new heat transfer fluid, trade marked Dowtherm LF, containing ethylbiphenyl as the primary ingredient. Because of its unique low freezing point this product has gained rapid initial acceptance by the chemical industry.

Ethylbiphenyl is not produced commercially in the United States and there is, to our knowledge, no practical substitute for this material in this application.

It is unlikely that ethylbiphenyl will be manufactured in this country within the next few years because the domestic market demand is, as yet, too small to justify the cost of new production facilities.

Further, the company that holds the U.S. patent rights for direct production of ethylbiphenyl is presently manufacturing the product in Japan, in a facility which has substantial excess capacity.

The duty paid on ethylbiphenyl, based on a duty rate of 1.4 cents per pound plus 17.3 percent ad valorem, represented 19.4 percent of the total cost of the material, excluding freight.

Although the total dollars paid to date are relatively small, this duty represents a significant extra cost burden compared to other heat transfer fluids.

As a result, Dowtherm LF is presently under a financial penalty in the marketplace despite its advantages in cold weather applications.

This economic penalty to heat transfer fluids containing ethylbiphenyl threatens to retard the growth in demand for these new products and thereby reduces the probability of eventual production in the United States.

The viability of U.S. exports of formulated fluids, which represented 25 percent of our production in 1981, is likewise weakened.

Conversely, the temporary suspension of the duty until June 30, 1985, will yield a competitive balance with alternative products.

This, we believe, will allow demand for ethylbiphenyl to grow from its present modest level to a point where domestic production can be justified.

Our company is researching a process for producing ethylbiphenyl which we believe will fall outside of the existing U.S. patent art.

We will strongly consider commercializing this process if ethylbiphenyl demand continues to grow at the projected rates through 1985.

A U.S. plant would entail a direct capital investment in excess of $3 million and would generate an estimated 12 to 15 new jobs.

On this basis, we strongly support the enactment of H.R. 4642 as a means of assuring the eventual addition of this valuable chemical to the domestic industrial base.

Thank you.

[The prepared statement follows:]

Statement of Charles D. Dever, Manager, Process Products, Dow Chemical U.S.A., Midland, Mich.

H.R. 4642, if enacted, would suspend the duty on imports of isomeric mixtures of ethylbiphenyl until June 30, 1985. This legislation would remove a severe economic restriction to the growth of a promising new product, thereby increasing the probability of eventual domestic production. On this basis, The Dow Chemical Company supports the enactment of the bill.

Ethylbiphenyl is an organic chemical produced synthetically from petroleum. Commercial grades are generally a mixture of meta and para isomers. The primary use of ethylbiphenyl is as an ingredient in high temperature heat transfer fluids for industrial processes.

Organic heat transfer fluids are widely used in the chemical process industries to transfer thermal energy to and from chemical reactions. The products are generally employed in process conditions where conventional steam or water heat transfer systems are impractical or unsafe.

The physical properties of ethylbiphenyl which make it useful as an ingredient in heat transfer fluids are (1) its stability as a liquid at temperatures up to 600° F., and (2) its unusually low freezing point of −20° F. This combination of properties permits the use of ethylbiphenyl over a wide range of temperatures in the liquid phase, and allows the fluid to remain pumpable in process equipment at very low temperatures.

By contrast, most widely used heat transfer fluids for high temperature applications begin to solidify at temperatures in the range of 20° to 30° above zero F. In northern climates, this limitation creates serious operating problems and costs during plant shut-downs due to freeze-up of piping and equipment.

U.S. production of high temperature heat transfer fluids totaled an estimated 25 million pounds in 1980. Five million pounds were exported. The U.S. output of these fluids is projected to grow to 36 million pounds by 1985, including nine million pounds of exports.

In 1980, our company introduced a new heat transfer fluid, trademarked Dowtherm* LF, containing ethylbiphenyl as the primary ingredient. Because of its unique low freezing point this product has gained rapid initial acceptance by the chemical industry.

Ethylbiphenyl is not produced commercially in the United States and there is, to our knowledge, no practical substitute for this material in this application. It is unlikely that ethylbiphenyl will be manufactured in this country within the next few years because the domestic market demand is, as yet, too small to justify the cost of new production facilities. Further, the company that holds the U.S. patent rights for direct production of ethylbiphenyl is presently manufacturing the product in Japan, in a facility which has substantial excess capacity.

In 1980, our company imported a total of 141,094 pounds of isomeric mixtures of ethylbiphenyl from Japan, at a cost of $140,000, for the production of Dowtherm* LF. In 1981, our imports of isomeric mixtures of ethylbiphenyl totaled 492,800 pounds, at a cost of approximately 490,000. During this period, Dow was the only importer of this product into the United States. The projected growth of ethylbiphenyl imports through 1985 is shown in Figure A.

The duty paid on imports of isomeric mixtures of ethylbiphenyl, based on a duty rate of 1.4 cents per pound plus 17.3 percent ad valorem, represented 19.4 percent of the total cost of the material, excluding freight. Although the total dollars paid to date are relatively small, this duty represents a significant extra cost burden compared to other heat transfer fluids. As a result, Dowtherm* LF is presently under a financial penalty in the marketplace despite its advantages in could weather applications.

This economic penalty to heat transfer fluids containing ethylbiphenyl threatens to retard the growth in demand for these new products and thereby reduces the probability of eventual production of ethylbiphenyl in the United States. The viability of U.S. exports of formulated fluids, which represented 25 percent of our production in 1981, is likewise weakened by this cost penalty.

Conversely, the temporary suspension of the duty until June 30, 1985, will yield a competitive balance with alternative productions. This, we believe, will allow demand for ethylbipheyl to grow from its present modest level to a point where domestic production can be justified.

Figure B presents a projection of duty revenue from ethylbiphenyl imports through 1985, as estimated by the International Trade Commission.[1] On this basis, the revenue loss by enactment of H.R. 4642 would total $462,000 for the years 1982, 1983 and 1984. However, since this estimate is based on future import projections (Figure A) which assume a suspension of duty, the revenue loss is strictly theoretical.

---

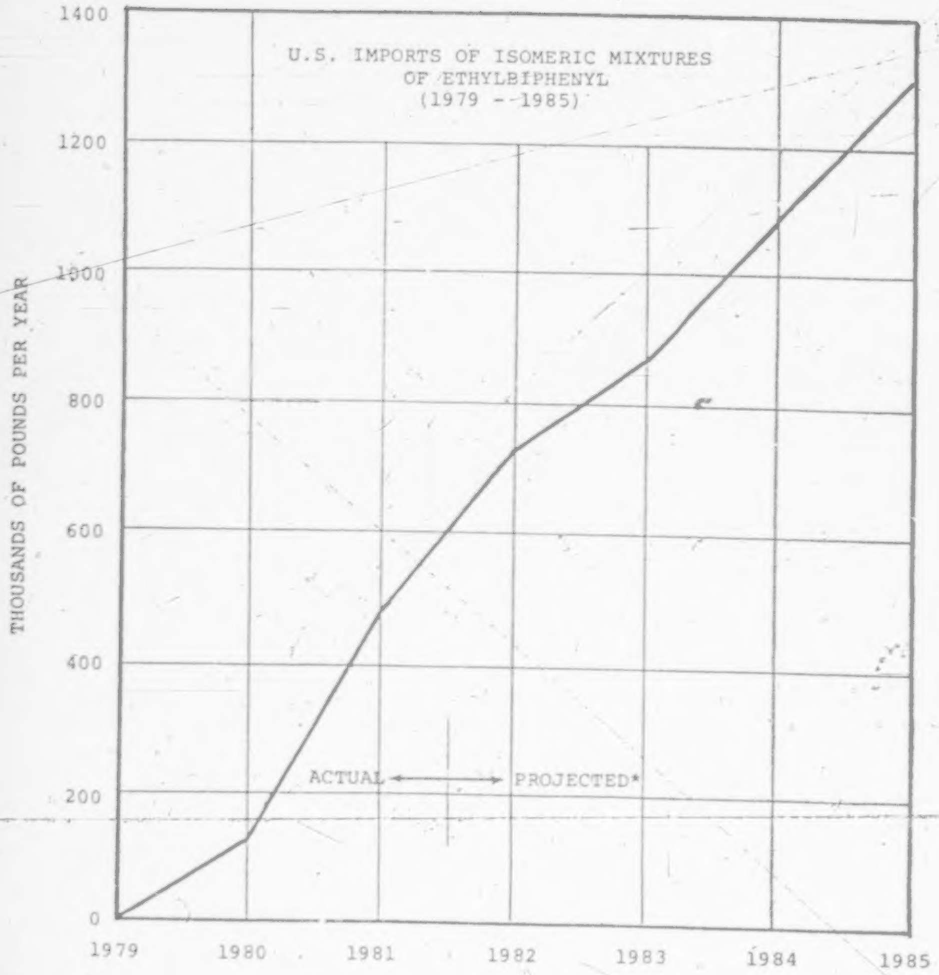
* Trademark of The Dow Chemical Company.

[1] Memorandum to the Committee on Ways and Means, December 11, 1981.

Our company is researching a process for producing ethylbiphenyl which we believe will fall outside of the existing U.S. patent art. We will strongly consider commericalizing this process if ethylbipenyl demand continues to grow at the projected rates through 1985. A U.S. plant would entail a direct capital investment in excess of $3 million and would generate an estimated 12-15 new jobs.

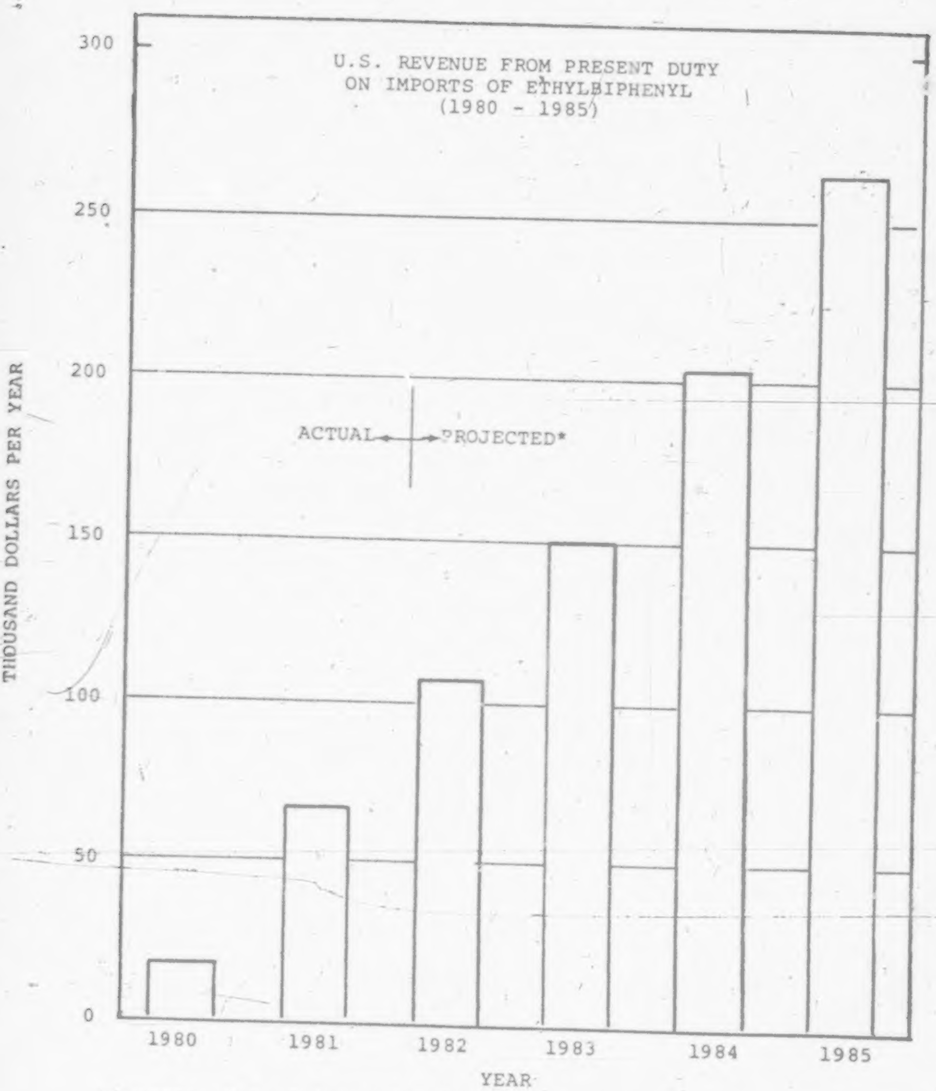
On this basis, we strongly support the enactment of H.R. 4642 as a means of assuring the eventual addition of this valuable chemical to the domestic industrial base.

FIGURE A



*Source: The Dow Chemical Company

FIGURE B



*Source: U.S. International Trade Commission
December 11, 1981, Memorandum

Chairman Gibbons. Where do you import it from?

Mr. Dever. From Japan.

Chairman Gibbons. Just out of curiosity, why do they make it and we can't?

Mr. Dever. It can be made.

Chairman Gibbons. It can be made, it is just a matter of economics?

Mr. Dever. That is correct. There really hasn't been any major use for this product. It has been sort of a byproduct in the industry and none of the U.S. refineries really recover this kind of product.

Chairman Gibbons. The reason I asked that question—I am not hostile to your bill at all, in fact, I support the bill—but one thread that runs all through this long hearing, not only today but yesterday and the day before, is that I asked where these things come from and it is always from Japan. Ninety percent of the time it is from Japan.

Is this a high technology-type of good we can't produce, or don't produce or is it just a matter of market, or what?

What is it?

Mr. Dever. That is a very good question, sir.

The Japanese have grown their industry, especially this synthetic chemical industry, very rapidly. In general, their facilities are more modern. They put a lot of money into them.

It is my impression that they have pursued a lot of the newer or the more exotic chemical areas to a greater degree than some of the U.S. industry.

Chairman Gibbons. Is it because they have better chemical graduates from college? Why are they so proficient in this area?

Mr. Dever. It is a very good question. I guess if we could answer it we would be in better competitive shape.

Chairman Gibbons. Do you have any questions?

Mr. Vander Jagt. I just want to thank our witnesses, Mr. Chairman. I think they made a very good case for the legislation. Thank you.

Chairman Gibbons. Any other questions?

[No response.]

Chairman Gibbons. As I said, I am not hostile to your position. I thought maybe I could rely upon you all to give me the scoop.

I bet you in this list of 50-some bills, a great portion of them are trying to get duty reduction of products coming from Japan.

When I asked the question before why we don't produce it, there is really no good answer. We either just don't do it because we don't want to do it or we haven't done it and I am hoping that somewhere I will get some insight as to why we have to constantly go back to people we call our chief trade competitor.

We are always complaining about the amount of trade we have with them. It is so unbalanced but we do need them, apparently.

Mr. Dever. We certainly do in some areas.

Chairman Gibbons. Thank you very much.

Mr. Dever. Thank you.

Chairman Gibbons. Let's go to clock radios now, H.R. 5554, by Mr. Vander Jagt.

All right, sir.

STATEMENT OF MICHAEL PEARLMAN, DEPARTMENT COUNSEL, AUDIO ELECTRONICS PRODUCTS DEPARTMENT, GENERAL ELECTRIC CO., ACCOMPANIED BY JAMES J. HOGAN, MANAGER, RADIO MARKETING

Mr. **Pearlman**. Thank you, Mr. Chairman, and members of the subcommittee. My name is Michael Pearlman.

Chairman **Gibbons**. Mr. Pearlman, you are not coming through on that Japanese microphone there.

Mr. **Pearlman**. All right, thank you. Is this better?

Chairman **Gibbons**. Yes, sir; that is better.

Mr. **Pearlman**. I am counsel for the Audio Electronics Products Department of General Electric Co., which is vitally interested in the passage of H.R. 5554.

Accompanying me is James J. Hogan, manager, Radio Marketing for the Audio Electronics Products Department.

Our business is headquartered in Syracuse, N.Y., and is responsible directly and indirectly for the employment of 600 engineering, marketing, sales, service, and support personnel by General Electric in this country.

The purpose of H.R. 5554 is to clarify an ambiguity and correct an anomaly in the Tariff Schedules of the United States which has been created by administrative and judicial decisions concerning the assessment of duties upon clock radios.

The bill provides for the temporary suspension of duties assessed on clock radios under Schedule 6, of the Tariff Schedules.

H.R. 5554 would create a separate and distinct temporary tariff classification for clock radios, valued under $50 each, 912.20.

The new provision would be clear and unambiguous and would provide recognition of the unique status and purpose of an important article of commerce.

The $50 limit prevents modification of expensive radio equipment to avoid duty. There are no U.S. manufacturers of clock radios as defined in this bill.

Now a brief word about the history of duty assessments on clock radios, and why we urge Congress to grant the relief sought in H.R. 5554.

Until the enactment of the Tariff Schedules of the United States, all types of radios were generally classified under paragraph 353 of the Tariff Act of 1930.

While clock radios were assessed with duty under this paragraph, the clock movements were separately assessed under either paragraph 367(a) or 368(a) of the 1930 act.

When the Tariff Schedules were adopted effective August 31, 1963, item 685.50 was designated as successor classification for combination articles previously classified under paragraphs 353 and 367(a) or 368(a), that is, clock radios.

In fact, the drafters of the Tariff Technical Amendments Act—enacted in 1965—recognized that clock radios were combination articles and within the scope of item 685.50.

But clock radios were not assessed under 685.50 as described specifically in the hearings on the Tariff Technical Amendments Act. They were assessed under item 685.22, intended for noncombination receivers.

A Presidential proclamation, effective January 1, 1968, established TSUS item 685.23 to embrace inexpensive portable transistor radios then being imported in large quantities from Japan.

The duty rate under this item was kept higher than the rate for other radios.

The higher rate under 685.23 did not apply to other combination articles such as solid state radios with tape recorders, nor should it have applied to clock radios, but for the illogical and unintended classification of clock radios with the then sensitive import items such as miniature transistor radios.

While duty rates on other nonsensitive import items were generally declining during the 1970's, clock radios continued to be assessed at the relatively high rate of 10.4 percent—plus duty under schedule 7—from 1971 through 1979.

H.R. 5554 provides for importations of clock radios duty free from column 1 countries for a 3-year period from the date of enactment.

The item is narrowly circumscribed to cover only those articles which were previously made subject to excessive duty as detailed above. Limited retroactivity is provided for a 1-year period prior to enactment.

This bill will not affect the preferences afforded certain beneficiary developing countries [BDC's] under the generalized system of preferences [GSP].

Although a substantial percentage—over 80 percent—of imported clock radios have come from Singapore, Taiwan, and Hong Kong, these countries, while generally eligible for GSP benefits, have never been eligible beneficiary countries with respect to clock radios.

On the other hand, Malaysia, a BDC eligible for GSP, will show a substantial increase in clock radio exports to the United States, regardless of the passage of H.R. 5554.

General Electric has established a radio manufacturing plant in Malaysia and an increasingly large proportion of its imports of clock radios will be supplied from that location.

Therefore, this bill will not circumvent the administration policies on graduation of BDC's.

Nor will the bill benefit in any substantial degree countries which have placed unfair barriers against U.S. exports.

Hong Kong is a well-known free market, while Singapore also pursues a free trade approach, with a $900-million trade balance in favor of the United States in 1980. These two nations accounted for over 70 percent of 1981 clock radio imports.

I might add that the other two GSP countries which are not eligible for clock radios, however, Taiwan and Korea, together only account for approximately 12 percent of imports.

It is estimated that duties paid by American importers have totaled in excess of $30 million above what should have been paid had the classification Congress originally intended been followed.

The bill as drafted does not grant recovery of this loss, other than for a 1-year period prior to passage.

The customs duties saved by importers (before income taxes) under this bill during the first year after enactment are calculated at approximately $10.2 million, based on estimated importations of clock radios.

However, the effect on future revenue should decline, as the duty rate under the classification now applied to clock radios declines from 8.8 percent, effective January 1, 1982, to 6 percent effective January 1, 1987, and GSP imports increase.

It is estimated that the revenue loss, should H.R. 5554 be enacted, will decline to $8.5 million and $7.7 million, respectively, for the second and third years following passage.

The public benefit from H.R. 5554 will far outweigh any duty loss. If the duty reductions are passed on to the consumers, and undoubtedly a large part of the cost savings would be so treated, the public will benefit from lower prices. This has been the historical pattern in the clock radio industry.

In conclusion, the creation of a new temporary tariff item for clock radios would be clear and unambiguous, and only entertainment-band clock radios for nonautomotive use would be affected by the statutory change.

The misreading of the statutory language by the administrators of the Tariff Schedules of the United States has resulted in erroneous and excessive assessment of duties on clock radios since at least 1970.

The temporary duty suspension provided in H.R. 5554 harms no American producer, benefits the consumer, and corrects a longstanding anomaly.

Thank you for allowing us to present our views on this matter.

[The prepared statement follows:]

STATEMENT OF M. A. PEARLMAN, DEPARTMENT COUNSEL, AUDIO ELECTRONICS PRODUCTS DEPARTMENT, GENERAL ELECTRIC CO.

SUMMARY

My name is Michael Pearlman. I am Counsel for the Audio Electronics Products Department of General Electric Company, which is vitally interested in the passage of H.R. 5554. Accompanying me is William G. Smith, Marketing Manager for the Audio Electronics Products Department.

Our business is headquartered in Syracuse, New York, and is responsible directly and indirectly for the employment of 600 engineering, marketing, sales, service and support personnel by General Electric in this country.

I testify today in support of H.R. 5554, and I request that my full written statement be incorporated into the record.

The purpose of H.R. 5554 is to clarify an ambiguity and correct an anomaly in the Tariff Schedules of the United States which has been created by administrative and judicial decisions concerning the assessment of duties upon clock radios. The bill provides for the temporary suspension of duties assessed on clock radios under schedule 6, of the Tariff Schedules, but does not change any duty assessment on that portion of the article which remains classified as a "clock" under the Texas Instruments case recently decided by the Court of Customs and Patent Appeals.

H.R. 5554 would create a separate and distinct temporary tariff classification for clock radios, valued under $50 each, 912.20. The new provision would be clear and unambiguous and would provide recognition of the unique status and purpose of an important article of commerce. The $50 limit prevents modification of expensive radio equipment to avoid duty. There are no U.S. manufacturers of clock radios as defined in this bill.

A "clock radio" incorporates a mechanism or module for timekeeping purposes together with a clock or other time display device in the same cabinet with a radio receiver which typically receives AM & FM entertainment band broadcasts. It is an article which combines the functions of a radio receiver and amplifier, a timing device, and a signalling device. It is a synergistic hybrid article with a particular utility which depends upon the interplay of its various features. During the past several years, separate classifications have been established for automobile radios, aircraft radios, 49 megahertz transceivers and citizen band transceivers. Like these items and other radio combination articles, clock radios are uniquely different from the general category of "solid-state radio receivers.'"

Now a brief word about the history of duty assessments on clock radios, and why we urge Congress to grant the relief sought in H.R. 5554. Until the enactment of the Tariff Schedules of the United States, all types of radios were generally classified under paragraph 353 of the Tariff Act of 1930. While clock radios were assessed with duty under this paragraph, the clock movements were separately assessed under either paragraph 367(a) or 368(a) of the 1930 Act.

When the Tariff Schedules were adopted effective August 31, 1963, item 685.50 was designated as successor classification for combination articles previously classified under paragraphs 353 and 367(a) or 368(a), i.e., clock radios.

The drafters of the Tariff Technical Amendments Act (enacted in 1965) recognized that clock radios were combination articles and within the scope of item 685.50 TSUS, as the following excerpt from the Committee Report indicates:

"In the TSUS, an effort was made to treat specifically with known popular forms of the combination articles in question which had previously been the subject of the aforementioned practice in item 685.50 (clock radios), item 711.65 (barometer-thermometer-clock, etc.) and items 756.02-.10 (lighter-watch)."

The "aforementioned customs practice" quoted above was directed toward explaining the scope of the headnote which re-established the separate assessment of clock movements in clock radios.

But clock radios were not assessed under 685.50 as described specifically in the hearings on the Tariff Technical Amendments Act. They were assessed under item 685.22, intended for non-combination receivers. A presidential proclamation, effective January, 1, 1968, established TSUS item 685.23 to embrace inexpensive portable transistor radios then being imported in large quantities from Japan. The duty rate under this item was kept higher than the rate for other radios.

Solid-state clock radios were assessed under 685.23 until January 1, 1976, when item 685.23 was split between item 685.24 and item 685.21 (radios for motor vehicles). The higher rate under 685.23 did not apply to other combination articles such as solid-state radios with tape recorders, nor should it have applied to clock radios, but for the illogical and unintended classification of clock radios with the then sensitive import items such as miniature transistor radios.

It was not until January 1, 1970, however, that the rate of duty under item 685.50 (originally intended by Congress to cover clock radios) became lower than the rate for item 685.23. Thus, the classification practice of the Customs Service had no adverse effect on clock radio importers until that date. While duty rates on other nonsensitive import items were generally declining during the 1970's, clock radios continued to be assessed at the relatively high rate of 10.4 percent (plus duty under schedule 7) from 1971 through 1979.

Attempts were made to obtain judicial clarification, but unfortunately, two judicial decisions have upheld classification of clock radios under the annotated provision in disregard of the declaration of the House Ways and Means Committee. The recent Texas Instruments decision affecting electronic timekeeping has further clouded the classification issues. By adopting this bill, the Congress will provide classification of clock radios in a clear and consistent manner and will correct an unfortunate series of interpretations and applications which has resulted in considerable confusion as to the proper classification of these articles.

H.R. 5554 provides for importations of clock radios duty-free from Column 1 countries for a three year period from the date enactment. The item is narrowly circumscribed to cover only those articles which were previously made subject to excessive duty as detailed above. Limited retroactivity is provided for a one year period prior to enactment.

The imposition of duties on these articles protects no American producer and merely serves to increase prices to the American consumer. According to the Electronic Industries Association and the Department of Commerce, U.S. production of all entertainment band radios, as a percentage of total production has decreased from 39 percent in 1965 to 8 percent in 1970, and to 0 in 1980. There continues to be no production of such products in the United States, to the best of our knowledge.

This bill will not affect the preferences afforded certain beneficiary developing countries (BDC's) under the Generalized System of Preferences (GSP). Although a substantial percentage (over 80 percent) of imported clock radios have come from Singapore, Taiwan and Hong Kong, these countries, while generally eligible for GSP benefits, have never been eligible beneficiary countries with respect to clock radios.

On the other hand, Malaysia, a BDC eligible for GSP, will show a substantial increase in clock radio exports to the United States, regardless of the passage of H.R. 5554. General Electric has established a radio manufacturing plant in Malaysia and an increasingly large proportion of its imports of clock radios will be supplied from that location. Therefore, this bill will not circumvent the administration policies on graduation of BDC's. It addresses a long history of wrongfully high duties assessed on clock radio imports. Nor will the bill benefit in any substantial degree countries which have placed unfair barriers against U.S. exports. Hong Kong is a well-known free market, while Singapore also pursues a free trade approach, with a $900 million trade balance in favor of the United States in 1980. These two nations accounted for over seventy percent (70 percent) of 1981 clock radio imports.

It is estimated that duties paid by American importers have totalled in excess of thirty million dollars above what should have been paid had the classification Congress originally intended been followed. The bill as drafted does not grant recovery for this loss, other than for a one-year period prior to passage. We estimate the recovery for this period at 6.8 million dollars.

The customs duties saved by importers (before income taxes) under this bill during the first year after enactment are calculated at approximately 10.2 million dollars, based on estimated importations of clock radios. However, the effect on future revenue should decline, as the duty rate under the classification now applied to clock radios declines from 8.8 percent, effective January 1, 1982, to 6.0 percent effective January 1, 1987, and GSP imports increase. It is estimated that the revenue loss should H.R. 5554 be enacted will decline to $8.5 million and $7.7 million, respectively, for the second and third years following passage.

The public benefit from H.R. 5554 will far outweigh any duty loss. If the duty reductions are passed on to the consumers, and undoubtedly a large part of the cost savings would be so treated, the public will benefit from lower prices. This has been the historical pattern in the industry.

In conclusion, the creation of a new temporary tariff item for clock radios would be clear and unambiguous, and only entertainment band clock radios for non-automotive use would be affected by the statutory change.

The misreading of the statutory language by the administrators of the Tariff Schedules of the United States has resulted in erroneous and excessive assessment of duties on clock radios since at least 1970. The temporary duty suspension provided in H.R. 5554 harms no American producer, benefits the consumer and corrects a long standing anomaly.

INTRODUCTION

My name is Michael Pearlman. I am Counsel for the Audio Electronics Products Department of General Electric Company, which is vitally interested in the passage of H.R. 5554. Accompanying me is William G. Smith, Marketing Manager for the Audio Electronics Products Department.

Our business is headquartered in Syracuse, New York, and is responsible directly and indirectly for the employment of 600 engineering, marketing, sales, service and support personnel by General Electric in this country.

The following statement with references has been submitted for the record.

I. PURPOSE

The purpose of H.R. 5554 is to clarify an ambiguity and correct an anomaly in the Tariff Schedules of the United States which has been created by administrative and judicial decisions concerning the assessment of duties upon clock radios. Albeit on a temporary basis, the bill will provide a desirable clarification of the statutory language and will correct an anomaly.

The area of tariff nomenclature involved lies within the electrical articles part (part 5) of the metal products schedule (schedule 6) of the Tariff Schedules of the United States ("TSUS"). The bill provides for the temporary suspension of duties assessed on clock radios under schedule 6.[1]

The question of classification has been further confused by the recent court decisions in the Texas Instruments line of cases. These decisions have held that electronic watches are not classifiable as "watches" under schedule 7. The Customs Service is now applying this decision to clock radios with electronic timekeeping. The confusion is compounded because there are several possible classifications for this class of clock radios, which represents approximately eighty percent (80%) of imports. The ambiguity would be heightened by the classification of clock radios with electronic timekeeping and clock radios with mechanical timekeeping under different TSUS items.

H.R. 5554 would create a separate and distinct temporary tariff classification, 912.20, for all clock radios, valued at less than $50.00 each.[2] The new provision would be clear and unambiguous and would provide recognition of the unique status and purpose of an important article of commerce.

---

[1] The bill will not change any duty assessment on the mechanical clock movements found in some clock radios. These movements will continue to be assessed under schedule 7, part 2, subpart E.

[2] In a conference with administration representatives on May 18, 1982, this upper limit on import value was added to prevent the modification of expensive hi-fi radios so as to qualify for duty-free entry under the provisions of this bill.

II. DESCRIPTION OF THE MERCHANDISE

A "clock radio" is a combination article which is directly used to regulate the waking and sleeping habits of its ultimate user. It incorporates a mechanism or module for timekeeping purposes together with a clock or other time display device in the same cabinet with a radio receiver which typically receives AM & FM entertainment band broadcasts. It also contains various switching and signalling devices. A "clock radio" is a special purpose machine which combines the functions of a radio receiver and amplifier, a timing device, and a signalling device. It is more than a radio receiver and more than a clock. It is a synergistic hybrid article with a particular utility which depends upon the interplay of its various features.

It is beyond doubt that a "clock radio" is a type of combination article, which is not commercially interchangeable with any other radio-type product. During the past several years, separate classifications have been established for automobile radios, aircraft radios, 49 megahertz transceivers and citizen band transceivers. Like these items and other radio combination articles, clock radios are uniquely different from the general category of "solid-state radio receivers."

III. TARIFF PROVISIONS INVOLVED

A. Clock radios, as will be explained later, are currently classified, along with many other radio products, under item 685.24[3]

The bill will add to subpart B of part 1 of the Appendix to the Tariff Schedule of the United States (19 U.S.C. 1202) the following new item:

Part 1. - Temporary Legislation

* * *

912.20	Entertainment broadcast band receivers valued not over $50. each (however provided for in schedule 6), incorporating timekeeping or time display devices and not designed for motor vehicle installation....	Free	No Change	On or before the 3-year period beginning on the date of the enactment of this item.

B. Pursuant to headnote 5 to schedule 7, part 2E, TSUS, any "watch or clock movement" (and any "dial") is constructively segregated from the article with which it is incorporated and is assessed with duty under schedule 7, part 2E, TSUS, as if it had been imported separately .

---

[3] This item is a tariff provision which is eligible for duty-free treatment under General Headnote 3(c) (ii) subject to the limitations of General Headnote 3(c) (iii), TSUS. The 1982 duty rate is 8.8% ad valorem.

IV. TARIFF CLASSIFICATION HISTORY

Until the enactment of the Tariff Schedules of the United States, all types of radios were generally classified under paragraph 353 of the Tariff Act of 1930.[4] While clock radios were assessed with duty under this paragraph, the clock movements were separately assessed under either paragraph 367(a) or 368(a) of the 1930 Act.[5]

When the Tariff Schedules were adopted effective August 31, 1963, item 685.50 was designated as successor classification for combination articles previously classified under paragraphs 353 and 367(a) or 368(a).[6]

---

[4] Paragraph 353 of the Tariff Act of 1930, as enacted, provided for:

> All articles suitable for producing, rectifying, modifying, controlling, or distributing electrical energy; electrical telegraph (including printing and typewriting), telephone, signalling, radio, welding, ignition, wiring, therapeutic, and x-ray apparatus, instruments (other than laboratory), and devices.***

[5] H.R. Rep. No. 342, 89th Cong. 1st Sess. 37 (H.R. 7969, May 12, 1965). (Attached hereto as Exhibit A.)

[6] 2 *Tariff Classification Study* 511,747-8; 8 *Tariff Classification Study* 299,314 (1960). (Attached hereto as Exhibit B.)

The drafters of the Tariff Technical Amendments Act (enacted in 1965) recognized that clock radios were combination articles and within the scope of item 685.50, TSUS, as the following indicates:

> SECTION 53: COMBINATION ARTICLES CONTAINING WATCH OR CLOCK MOVEMENTS
>
> ***
>
> 2. Treatment Under The Tariff Schedules of The United States
>
> In the TSUS, an effort was made to treat specifically with the known popular forms of the combination articles in question which had previously been the subject of the aforementioned customs practice in item 685.50 (clock radios), item 711.65 (barometer-thermometer-clock, etc.) and items 756.02-.10 (lighter-watch).[7]

The "aforementioned customs practice" referenced above was directed toward explaining the scope of headnote 5 to schedule 7, part 2E, which re-established the separate assessment of clock movements in clock radios.

Radio receivers were assessed under item 685.22, intended for non-combination receivers. As a result of the Geneva (1967) Protocol to the General Agreement on Tariffs and Trade, Presidential Proclamation 3822, 82 Stat. 1455, effective January 1, 1968, split item 685.22. It established a new item 685.23, TSUS (other solid-state (tubeless) radio receivers), to embrace inexpensive portable transistor radios then being imported in large quantities from Japan. Item 685.25, TSUS, covered all the other articles originally classifiable under item 685.22, TSUS. Stated rate reductions on all of these articles were provided, but the rate under 685.25 was consistently lower than that under 685.23.

---

[7] H.R. Rep. No. 342, *supra* note 4, at 37.

The Customs Service's treatment of clock radios has been at variance from the classification Congress established.[8] Solid-state clock radios were assessed under 685.23 until January 1, 1976, when item 685.23 was split between item 685.24 and item 685.21 (radios for motor vehicles).

It was not until January 1, 1970, however, that the rate of duty under item 685.50 (originally intended by Congress to cover clock radios)[9] became lower than the rate for item 685.23. Thus, the classification practice of the Customs Service had no adverse effect on clock radio importers until that date. The higher rate under 685.23 did not apply to other combination articles such as solid-state radios with tape recorders,[10] nor should it have applied to clock radios, but for the illogical and unintended classification of clock radios with the then sensitive import items such as miniature transistor radios. While duty rates on other nonsensitive import items were generally declining during the 1970's, clock radios continued to be assessed at the relatively high rate of 10.4% (plus duty under schedule 7) from 1971 through 1979.

Confusion was compounded by the appearance, on January 1, 1970, of a statistical annotation of 685.23 (now 685.24) to include clock radios. This was the first published reference to clock radios under this item. Statistical annotations are compiled by a committee in the Executive Branch of the Government established pursuant to Section 484(e), Tariff Act of 1930, as amended by the Tariff Classification Act of 1962. This committee, the Statistical Annotation Committee, provided for the annotation of item 685.23, TSUS, and the listing thereunder for "solid-state (tubeless) radio receivers, including a clock or timer".[11] Such annotations are not classifications for the purpose of determining duty, but this development furthered the appearance that clock radios were classifiable as the Customs Service had been maintaining and further confused the issue.

---

[8] Id.; Tariff Classification Study (1960), supra note 5.

[9] Id.

[10] Correspondingly, this legislation does not affect the duty rate on clock radios combined with other articles, such as tape players and recorders.

[11] Annotation 685.2330, now Annotations 685.2405, 685.2411, 685.2415 and 685.2421, TSUS Annotated.

Attempts were made to obtain judicial clarification, but unfortunately, two judicial decisions[12] have upheld classification of clock radios under the annotated provision in disregard of the declaration of the House Ways and Means Committee.[13] By adopting this bill, the Congress will provide classification of clock radios in a clear and consistent manner and will correct an unfortunate series of interpretations and applications which has resulted in considerable confusion as to the proper classification of these articles.

V. JUSTIFICATION FOR SUSPENSION OF DUTY

A. LACK OF AMERICAN PRODUCTION

H.R. 5554 provides for importations of clock radios duty-free from Column 1 countries for a three year period from the date of enactment. The item is narrowly circumscribed to cover only those articles which were previously made subject to excessive duty as detailed above. Limited retroactivity is provided for a one year period prior to enactment.

The imposition of duties on these articles protects no American producer and merely serves to increase prices to the American consumer. According to the Electronic Industries Association, U.S. production of all entertainment band radios, as a percentage of total production has decreased from 39% in 1965 to 8% in 1970, and to 0 in 1980. There continues to be no production of such products in the United States.[14]

---

[12] Montgomery Ward & Co., Inc. v. United States, 74 Cust. 125, C.D. 4596 (1975); General Electric Company v. United States, 83 Cust. 56, C.D. 4822, 476 F. Supp. 1082 (1979), aff'd, 620 F.2d 883 (1980)

[13] H.R. Rep. No. 342, supra note 4, at 37.

[14] 1980 U.S. Industrial Outlook (U.S. Department of Commerce/Industry and Trade Administration), at 400.

V. JUSTIFICATION FOR SUSPENSION OF DUTY

B. GSP CONSIDERATIONS

This bill will not affect the preferences afforded certain beneficiary developing countries (BDC's) under the Generalized System of Preferences (GSP). Although a substantial percentage (over 80%) of imported clock radios have come from Singapore, Taiwan and Hong Kong, these countries, while generally eligible for GSP benefits, have never been eligible beneficiary countries with respect to clock radios.

On the other hand, Malaysia, a BDC eligible for GSP, will show a substantial increase in clock radio exports to the United States, regardless of the passage of H.R. 5554. General Electric has established a radio manufacturing plant in Malaysia and an increasingly large proportion of its imports of clock radios will be supplied from that location. Therefore, this bill will not circumvent the administration policies on graduation of BDC's. It addresses a long history of wrongfully high duties assessed on clock radio imports. Nor will the bill benefit in any substantial degree countries which have placed unfair barriers against U.S. exports. Hong Kong is a well-known free market, while Singapore also pursues a free trade approach, with a $900 million trade balance in favor of the United States in 1980.[15] These two nations accounted for over seventy percent (70%) of 1981 clock radio imports.

---

[15] Subcomm. on Trade, House Comm. on Ways and Means, 97th Cong., 1st Sess., Report on Trade Mission to Far East 69-71 (Comm. Print 1981)

V. JUSTIFICATION FOR SUSPENSION OF DUTY

C. ECONOMIC CONSIDERATIONS

It is estimated that American importers have paid in excess of thirty million dollars ($30 000 000) above what would have been paid under the classification originally intended by Congress. The bill as drafted does not grant recovery for this loss, other than for a one-year period prior to passage. We estimate the recovery for this period at 6.8 million dollars.

The customs duties saved by importers (before income taxes) under this bill during the first year after enactment are calculated at approximately 10.2 million dollars based on estimated importations of clock radios. However, the effect on future revenue should decline, as duty rates on the radio portion of the clock radio affected by this legislation decline from 8.8%, effective January 1, 1982, to 6.0% effective January 1, 1987. Other variables will affect these figures, such as the level of importations, the shift of production to areas which otherwise be eligible for GSP, the American goods returned content, and manufacturing cost variables. It is estimated that the duties saved should H.R. 5554 be enacted will decline to $8.5 million in the second year following passage, and $7.7 million during the third year.

The public benefit from this legislation will far outweigh any duty loss. If the duty reductions are passed on to the consumers, and undoubtedly a large part of the cost savings would be so treated, the public will benefit from lower prices. This has been the historical pattern in the industry.

CONCLUSION

The creation of a new temporary tariff item for clock radios would be clear and unambiguous, and only entertainment band clock radios valued at less than $50.00 each, and designed for non-automotive use would be affected by the statutory change.

The misreading of the statutory language by the administrators of the Tariff Schedules of the United States has resulted in erroneous and excessive assessment of duties on clock radios since at least 1970. Duty free entry for the portion of these articles not assessable as a clock movement harms no American producer, benefits the consumer, and corrects a long standing anomaly.

H.R. 5554 would be effective with regard to all importations of merchandise entered, but not finally liquidated, on or after a date one-year prior to enactment of the legislation. Duty free treatment of electronic digital clock radios and the non-clock portion of other clock radios would be provided for a period of three years following enactment.

EXHIBIT A

UNITED STATES TARIFF COMMISSION

(Vol. 2)

TARIFF CLASSIFICATION STUDY

Proposed Revised Tariff Schedules of the United States

Report to the President and to the Chairmen of the
Committee on Ways and Means of the House
and the Committee on Finance of the Senate
Pursuant to Title I of the Customs
Simplification Act of 1954

November 15, 1960

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1960

PROPOSED REVISED TARIFF SCHEDULES OF THE UNITED STATES

PREFACE

This volume contains the proposed revised U.S. tariff schedules and a cross-reference showing the distribution of the existing tariff provisions in the proposed revision. This volume is part of a 10-volume report submitted pursuant to title I of the Customs Simplification Act of 1954, as amended. Title I directs the Tariff Commission to make a comprehensive study of U.S. laws prescribing the tariff status of imported articles, and to submit to the President and to the chairmen of the House Committee on Ways and Means and the Senate Committee on Finance, a revision and consolidation of those laws that, in the Commission's judgment, will accomplish to the extent practicable the following purposes:

(1) Establish schedules of tariff classifications which will be logical in arrangement and terminology and adapted to the changes that have occurred since 1930 in the character and importance of articles produced in and imported into the United States and in the markets in which they are sold.

(2) Eliminate anomalies and illogical results in the classification of articles.

(3) Simplify the determination and application of tariff classifications.

The Tariff Act of 1930, which became effective on June 18, 1930, is the latest general tariff revision by the U.S. Congress. Rates of duty fixed in that act are set forth in title I (dutiable list) and articles exempt from duty are set forth in title II (free list). In addition, a number of articles in the dutiable and free lists have been made subject to import taxes imposed by the Internal Revenue Code. These taxes are treated for virtually all purposes as ordinary customs duties.

In the proposed revised tariff schedules, the existing tariff classification laws are consolidated into eight schedules; seven of these schedules relate to specified groups of commodities and one relates to special classification provisions. An appendix embraces temporary and collateral tariff measures.

The proposed revised tariff laws are arranged as follows:

General headnotes and rules of interpretation
Schedule 1.—Animal and vegetable products
Schedule 2.—Wood and paper; printed matter
Schedule 3.—Textile fibers and textile products
Schedule 4.—Chemicals and related products
Schedule 5.—Nonmetallic minerals and products
Schedule 6.—Metals and metal products
Schedule 7.—Specified products; miscellaneous and nonenumerated products
Schedule 8.—Special classification provisions
Appendix to tariff schedules

As previously stated, the final report submitted by the Commission pursuant to title I of the Customs Simplification Act consists of 10 volumes. One volume contains the submitting report with general explanatory notes and discussion of the problems of implementation. The interim report of March 15, 1955, and a full outline of the proposed revised schedules are incorporated in this volume as appendixes. The second (or present) volume consists of the proposed revised schedules, together with the above-mentioned cross-reference.

Each of the other eight volumes includes material relating to a specific tariff schedule. Included in each of these volumes are (1) the proposed revised schedule to which the volume pertains; (2) explanatory notes for that schedule; (3) provisions of the Tariff Act of 1930, as amended and modified, and related provisions of law incorporated in that schedule; (4) the schedule as published by the Tariff Commission for public hearing; and (5) the text of the written statements received by the Commission with respect to that schedule, together with the transcript of oral testimony presented at the public hearing. The volume for proposed schedule 8 also includes the appendix to the proposed tariff schedules and the pertinent data related thereto.

From the time the tariff classification study was initiated in 1954 until May 1, 1959, Edgar B. Brossard was the Chairman, and Joseph E. Talbot was the Vice Chairman, of the Tariff Commission. Effective May 1, 1959, Commissioner Brossard retired from the Commission and Joseph E. Talbot was made Chairman and J. Allen Overton, Jr., was appointed and made Vice Chairman of the Commission.

CONTENTS

Page
Preface III
Text of proposed revised tariff schedules 1
Cross-reference between existing and proposed provisions 721

PROPOSED REVISED TARIFF SCHEDULES

General headnotes and rules of interpretation 3

SCHEDULE 1.—ANIMAL AND VEGETABLE PRODUCTS

Part 1.—Live animals 19
Part 2.—Meats 23
  A. Bird meat 23
  B. Meats other than bird meat 24
Part 3.—Fish and shellfish 27
  A. Fish, fresh, chilled, or frozen 27
  B. Fish, dried, salted, pickled, smoked, or kippered 30
  C. Fish in airtight containers 32
  D. Other fish products 35
  E. Shellfish 36
Part 4.—Dairy products; birds' eggs 37
  A. Milk and cream 37
  B. Butter, oleomargarine, and butter substitutes 38
  C. Cheeses 39
  D. Other milk products 40
  E. Poultry and other birds' eggs 41
Part 5.—Hides, skins, and leather; furskins 43
  A. Hides, skins, and leather 43
  B. Furskins 45
Part 6.—Live plants; seeds 47
  A. Live plants 47
  B. Seeds 48
Part 7.—Cereal grains, milled grain products, and malts and starches 51
  A. Grains 51
  B. Milled grain products 52
  C. Malts and starches 54
Part 8.—Vegetables 55
  A. Vegetables, fresh, chilled, or frozen 55
  B. Vegetables, dried, desiccated, or dehydrated 59
  C. Vegetables, packed in salt, in brine, pickled, or otherwise prepared or preserved 60
  D. Mushrooms and truffles 62

Page
Part 3.—Metal products 453
  A. Metallic containers 453
  B. Wire cordage; wire screen, netting and fencing; bale ties 455
  C. Metal leaf and foil; metallics 460
  D. Nails, screws, bolts, and other fasteners; locks; builders' hardware; furniture, luggage, and saddlery hardware 463
  E. Tools, cutlery, forks and spoons 468
  F. Miscellaneous metal products 481
  G. Metal products not specially provided for 486
Part 4.—Machinery and mechanical equipment 489
  A. Boilers, nonelectric motors and engines, and other general-purpose machinery 490
  B. Elevators, winches, cranes, and related machinery; earth-moving and mining machinery 495
  C. Agricultural and horticultural machinery; machinery for preparing food and drink 496
  D. Pulp and paper machinery; bookbinding machinery; printing machinery 497
  E. Textile machines; laundry and drycleaning machines; sewing machines 498
  F. Machines for working metal, stone, and other materials 501
  G. Office machines 503
  H. Other machines 505
  J. Parts of machines 506
Part 5.—Electrical machinery and equipment 507
Part 6.—Transportation equipment 515
  A. Rail locomotives and rolling stock 515
  B. Motor vehicles 516
  C. Aircraft and spacecraft 518
  D. Pleasure boats; floating structures 519

SCHEDULE 7.—SPECIFIED PRODUCTS; MISCELLANEOUS AND NONENUMERATED PRODUCTS

Part 1.—Footwear; headwear and hat braids; gloves; luggage, handbags, billfolds, and other flat goods 526
  A. Footwear 526
  B. Headwear and hat braids 529
  C. Gloves 533
  D. Luggage; women's and children's handbags; and billfolds, card cases, coin purses, and similar flat goods 537
Part 2.—Optical goods; scientific and professional instruments; watches, clocks, and timing devices; photographic goods; motion pictures; recordings and recording media 541
  A. Optical elements, spectacles, microscopes, and telescopes; optical goods not elsewhere provided for 542
  B. Medical and surgical instruments and apparatus; X-ray apparatus 545
  C. Surveying, navigational, meteorological, drawing, and mathematical calculating instruments; measuring and checking instruments not specially provided for 548

TARIFF CLASSIFICATION STUDY

TEXT OF
PROPOSED REVISED TARIFF SCHEDULES

	Item	Articles	Rates of duty	
			1	2
		Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and television cameras; record players, phonographs, tape recorders, dictation recording and transcribing machines, record changers, and tone arms; *all of the foregoing, and any combination* thereof, whether or not incorporating clocks or other timing apparatus, and parts thereof:		
353(19, 36)	685.10	Television cameras, and parts thereof..........	12.5% ad val.	35% ad val.
353(20, 28, 36)	685.20	Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and parts thereof.......	12.5% ad val.	35% ad val.
353(23, 36), 1542	685.30	Record players, phonographs, radio-phonograph combinations, record changers, turn-tables, and tone arms..................................	14% ad val.	35% ad val.
372(5, 69), 1542	685.40	Tape recorders and dictation recording and transcribing machines, and parts thereof.....	15% ad val.	30% ad val.
353(23, 36), 367(a), 368(a), 1542	685.50	Other..	15% ad val.	35% ad val.
353(26, 36)	685.60	Radio navigational aid apparatus, radar apparatus, and radio remote control apparatus, all the foregoing and parts thereof.........................	15% ad val.	35% ad val.
353(27, 36)	685.70	Bells, sirens, indicator panels, burglar and fire alarms, and other sound or visual signalling apparatus, all the foregoing which are electrical, and parts thereof................................	10.5% ad val.	35% ad val.
353(26, 36)	685.80	Electrical capacitors, fixed or variable............	15% ad val.	35% ad val.
353(24, 31, 36)	685.90	Electrical switches, relays, fuses, lightning arresters, plugs, receptacles, lamp sockets, terminals, terminal strips, junction boxes and other electrical apparatus for making or breaking electrical circuits, for the protection of electrical circuits, or for making connections to or in electrical circuits; switchboards (except telephone switchboards) and control panels; all the foregoing and parts thereof....................	17.5% ad val.	35% ad val.

This cross reference is designed to facilitate identification of existing tariff classification provisions in the proposed revised United States tariff schedules. It shows the numbers (arranged in order) of all the paragraphs of the Tariff Act of 1930, as amended, and of related tariff provisions, and opposite each such number, identifies the number of each item in the proposed revised schedules which is derived in whole or in part from the indicated existing tariff provision.

CROSS REFERENCE
TO
REVISED TARIFF SCHEDULES

Tariff Act of 1930	Revised Tariff Schedules						
Paragraph	Schedule	Part	Item				
363	7	5	730.05				
364	6	3	652.55	652.60			
365	7	5	730.23	730.25	730.27	730.29	730.31
			730.37	730.39	730.41	730.43	730.45
			730.51	730.53	730.55	730.57	730.59
			730.63	730.65	730.67	730.71	730.73
			730.75	730.77			
366	7	5	730.15	730.17	730.19	730.61	730.80
367(a)	6	5	685.50				
	7	2	711.65	715.05	715.15	715.80	715.81
			715.82	715.83	715.84	715.85	715.86
			715.90	716.08	716.10	716.11	716.12
			716.13	716.14	716.15	716.16	716.20
			716.21	716.22	716.23	716.24	716.25
			716.26	716.30	716.31	716.32	716.33
			716.34	716.35	716.36	717.—	718.—
			719.—	720.02	720.04	720.06	720.08
	7	9	756.02	756.04	756.06	756.10	
367(b)	7	2	Headnotes, Subpart E : 4(a)				
367(c)	7	2	720.65	720.70	720.75	720.90	721.05
367(d)	7	2	720.60				
367(e)	7	2	720.40				
367(f)	7	2	715.05	715.15	720.20	720.24	720.28
			720.32				
367(g)	7	2	Headnotes, Subpart E : 4(c)				
367(h)	7	2	Headnotes, Subpart E : 3(d)				
367(i)	7	2	Headnotes, Subpart E : 2(e)				
367(j)	7	2	Headnotes, Subpart E : 4				

CROSS REFERENCE
TO
REVISED TARIFF SCHEDULES

Tariff Act of 1930	Revised Tariff Schedules						
Paragraph	**Schedule**	**Part**	**Item**				
368(a)	6	4	660.65	680.50			
	6	5	682.20	685.50			
	7	2	710.20	710.21	710.26	710.27	710.50
			710.80	711.65	711.82	711.94	712.10
			712.25	712.27	712.29	712.31	712.33
			712.35	712.37	712.50	713.05	713.07
			713.09	713.11	713.17	715.05	715.20
			715.25	715.27	715.29	715.31	715.33
			715.40	715.45	715.47	715.49	715.51
			715.53	715.60	715.62	715.64	715.66
			715.68	715.80	715.81	715.82	715.83
			715.84	715.85	715.86	715.90	720.10
			720.12	720.14	720.16	720.18	
	7	9	756.10				
368(b)	7	2	710.50	710.80	712.50		
368(c)	6	5	682.55				
	7	2	710.50	710.80	711.96	712.12	712.39
			712.50	713.15	713.19	720.34	720.36
			720.44	720.80	720.82	720.84	720.86
			720.92	720.94	721.10	721.12	
368(d)	7	2	710.50	710.80	712.50	720.42	720.67
368(e)	7	2	720.34	720.36			
368(f)	7	2	Headnotes, Subpart E : 4				
368(g)	7	2	711.90				
369(a)	6	6	692.05	692.15	692.20		
369(b)	8	6	692.10	692.22	692.50		
369(c)	6	3	652.85				
	6	4	660.40	660.45	660.50	660.55	660.60
			660.90				

(Vol. 8) -

UNITED STATES TARIFF COMMISSION

TARIFF CLASSIFICATION STUDY

EXPLANATORY AND BACKGROUND MATERIALS

Schedule 6.—Metals and Metal Products

Report to the President and to the Chairmen of the
Committee on Ways and Means of the House
and the Committee on Finance of the Senate
Pursuant to Title I of the Customs
Simplification Act of 1954

November 15, 1960

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1960

CONTENTS

Page
Preface IX

Introductory matter:

Revised tariff schedules X
Explanatory notes XI
Statutory, trade agreement, and related provisions in effect December 31, 1959 XI
Appendix XI
Schedule 6 XII
Schedule 6.—Metals and metal products 1

Part 1.—Metal-bearing ores and other metal-bearing materials:

Revised tariff schedule 3
Explanatory notes 11
Statutory, trade agreement, and related provisions in effect December 31, 1959 23

Part 2.—Metals, their alloys, and their basic shapes and forms:

Revised tariff schedule 31
Explanatory notes 83
Statutory, trade agreement, and related provisions in effect December 31, 1959 105

Part 3.—Metal products:

Revised tariff schedule 139
Explanatory notes 174
Statutory, trade agreement, and related provisions in effect December 31, 1959 205

Part 4.—Machinery and mechanical equipment:

Revised tariff schedule 239
Explanatory notes 257
Statutory, trade agreement, and related provisions in effect December 31, 1959 277

Part 5.—Electrical machinery and equipment:

Revised tariff schedule 295
Explanatory notes 302
Statutory, trade agreement, and related provisions in effect December 31, 1959 309

Part 6.—Transportation equipment:

Revised tariff schedule 319
Explanatory notes 324
Statutory, trade agreement, and related provisions in effect December 31, 1959 328

Appendix:

Public notice of opening of hearings, issued January 17, 1958 333
Public notice of hearing on schedule 6 and schedule 7, part 2, subparts A, B, C, D, and E, issued June 17, 1959 336
Schedule 6 as published for hearing 337
Revision of schedule 6, part 1, and related provisions of part 2, published October 22, 1959, and January 28, 1960, for comment 474
Revisions of schedule 6, parts 2 and 3, published February 17, 1960, for comment 494

TARIFF CLASSIFICATION STUDY

PREFACE

This volume contains the explanatory and background materials with respect to schedule 6 of the proposed revised tariff schedules. This volume is part of a 10-volume report submitted pursuant to title I of the Customs Simplification Act of 1954, as amended. Title I directs the Tariff Commission to make a comprehensive study of U.S. laws prescribing the tariff status of imported articles, and to submit to the President and to the chairmen of the House Committee on Ways and Means and the Senate Committee on Finance a revision and consolidation of those laws that, in the Commission's judgment, will accomplish to the extent practicable the following purposes:

(1) Establish schedules of tariff classifications which will be logical in arrangement and terminology and adapted to the changes that have occurred since 1930 in the character and importance of articles produced in and imported into the United States and in the markets in which they are sold.

(2) Eliminate anomalies and illogical results in the classification of articles.

(3) Simplify the determination and application of tariff classifications.

The Tariff Act of 1930, which became effective on June 18, 1930, is the latest general tariff revision by the U.S. Congress. Rates of duty fixed in that act are set forth in title I (dutiable list) and articles exempt from duty are set forth in title II (free list). In addition, a number of articles in the dutiable and free lists have been made subject to import taxes imposed by the Internal Revenue Code. These taxes are treated for virtually all purposes as ordinary customs duties.

In the proposed revised tariff schedules, the existing tariff classification laws are consolidated into eight schedules; seven of these schedules relate to specified groups of commodities and one relates to special classification provisions. An appendix embraces temporary and collateral tariff measures.

The proposed revised tariff laws are arranged as follows:

General headnotes and rules of interpretation.
Schedule 1.—Animal and vegetable products.
Schedule 2.—Wood and paper; printed matter.
Schedule 3.—Textile fibers and textile products.
Schedule 4.—Chemicals and related products.
Schedule 5.—Nonmetallic minerals and products.
Schedule 6.—Metals and metal products.
Schedule 7.—Specified products; miscellaneous and nonenumerated products.
Schedule 8.—Special classification provisions.
Appendix to tariff schedules.

As previously stated, the final report submitted by the Commission pursuant to title I of the Customs Simplification Act consists of 10 volumes. One volume contains the submitting report with general explanatory notes and discussion of the problems of implementation. The interim report of March 15, 1955, and a full outline of the revised schedules are incorporated in this volume as appendixes. The second volume consists of the proposed revised schedules, together with a cross-reference showing the distribution of the existing tariff provisions in the proposed revision.

Each of the other eight volumes includes material relating to a specific tariff schedule. Included in each of these volumes are (1) the proposed revised schedule to which the volume pertains; (2) explanatory notes for that schedule; (3) provisions of the Tariff Act of 1930, as amended and modified, and related provisions of law incorporated in that schedule in effect as of December 31, 1959; (4) the schedule as published by the Tariff Commission for public hearing; and (5) the text of the written statements received with respect to that schedule and the transcript of the oral testimony presented at the hearings. The volume for proposed schedule 8 also includes the appendix to the proposed tariff schedules and the pertinent data related thereto.

From the time the tariff classification study was initiated in 1954 until May 1, 1959, Edgar B. Brossard was the Chairman and Joseph E. Talbot was the Vice Chairman of the Tariff Commission. Effective May 1, 1959, Commissioner Brossard retired from the Commission and Joseph E. Talbot was made Chairman and J. Allen Overton, Jr., was appointed and made Vice Chairman of the Commission.

INTRODUCTORY MATTER

Revised tariff schedules

The revised tariff schedules are in tabular form and each rate description has been given an item number by which it may be cited. The rates of duty are shown in two columns. The rates of duty shown in column 2 apply only to products of the Union of Soviet Socialist Republics and products of other nations or areas designated by the President pursuant to section 5 of the Trade Agreement Extension Act of 1951, as amended. With few exceptions these products are now subject to the statutory rates specified in the Tariff Act of 1930. The rates of duty shown in column 1 apply to products of all other countries. Preferential rates applicable to the products of Cuba are shown in column 1. Except as otherwise provided in the schedule for specified commodities, products of the Philippine Republic are subject to the rates of duty in column 1 or fractional parts of those rates as provided for in the general headnotes to the revised tariff schedules.

The revised tariff schedules are arranged in parts and many of the parts are further divided into subparts. The titles of the schedules, the parts, and the subparts are for convenience in finding a particular article but are not an interpretive part of the schedule.

In this volume each page of the proposed revised schedule includes citations to the existing provisions involved.

Explanatory notes

Section 101(b) of the Customs Simplification Act specified that the Commission should seek to accomplish the revision and consolidation of the customs law without suggesting changes in any rate of duty. Where, however, in the judgment of the Commission, the purposes of the act cannot be accomplished without rate changes, the Commission is required in its report to specify the incidental change in rate and submit a summary of the data on which such rate change was based, together with a statement of the probable effect of such change on any industry in the United States. The explanatory notes covering each part of the revised tariff schedules indicate rate changes and set forth the data required by law.

Statutory, trade agreement, and related provisions in effect December 31, 1959[1]

For each part of the revised tariff schedules there is shown the provisions of the Tariff Act of 1930, as amended, and modified, and related provisions of law incorporated in that part. A cross reference (col. 1) identifies the revised tariff item. The word "none" or "dropped" in column 1 opposite a provision indicates the intent to repeal the provision.

The 1930 Tariff Act provisions are arranged in order by paragraph number and are followed by the related tariff provisions. The statutory description of articles, as amended through December 1959, is shown in column 3. Column 4 shows the subclassifications of statutory language required to reflect the rate of duty in effect December 31, 1959. The subclassifications result primarily from the granting of a trade agreement concession on only a part of a statutory description. However, a few tariff descriptions are subdivided so that they appear in more than one part of the revised tariff schedule which has required a subclassification in column 4; such subclassifications are preceded by an asterisk (*).

The "Trade agreement rate" column shows all trade agreement obligations in effect December 31, 1959. The word "None" in this column indicates there is no trade agreement obligation, and the rate shown for such item in the "Full rate" column applies. All products of Cuba subject to a preferential rate are set forth separately and the preferential rate is shown in the "Trade agreement rate" column.

The "Full rate" applies only to products of Communist-dominated countries or areas designated by the President pursuant to section 5 of the Trade Agreements Extension Act of 1951. Except for a very few, the rates shown in this column are those specified in the Tariff Act of 1930 or established pursuant to section 336 of the Tariff Act of 1930.

Appendix

Schedule 6 was published by the Commission for public hearing on June 17, 1959, and hearings thereon were held beginning July 14, 1959. A copy of the Commission's public notice of January 17, 1958, of the opening of public hearings on the proposed revised and consolidated tariff schedules and a copy of the public notice of June 17, 1959, are included in the appendix. There are also included a copy of schedule 6 as published for hearing, copies of revisions of parts 1, 2, and 3 published in October 1959, and in January and February 1960, for comment, a copy of the opening statement of the chairman at the hearing, a copy of the transcript of oral testimony presented at the hearing, and a copy of all written statements received concerning schedule 6.

---

[1] Changes made between Dec. 31, 1959, and Aug. 1, 1960, are shown in footnotes.

The table of contents and the explanatory notes list the persons making oral and written statements and indicate the parts of the schedule in which they are interested. It should be noted that references to item numbers in the oral testimony and written statements are to those numbers appearing in the schedule as published for hearing. A few of the numbers have been changed in the final draft of the revised schedules.

Schedule 6

Schedule 6 brings together tariff classification provisions covering metals and most metal products. In the Tariff Act of 1930 these provisions are found primarily in schedule 3 and related provisions in the free list. Metal products not included are principally those which contain or are made from various other materials; for example, scientific instruments, furniture, and sporting goods are provided for in schedule 7. Schedule 6 provides for a logical arrangement of metals and metal products and takes cognizance of the many developments in metals and metal products since 1930.

Schedule 6 is arranged as follows:

Part
1 Metal-bearing ores and other metal-bearing materials.
2 Metals, their alloys and their basic shapes and forms:
    A. Precious metals.
    B. Iron or steel.
    C. Copper.
    D. Aluminum.
    E. Nickel.
    F. Tin.
    G. Lead.
    H. Zinc.
    J. Beryllium, columbium, germanium, hafnium, indium, magnesium, molybdenum, rhenium, tantalum, titanium, tungsten, uranium, and zirconium.
    K. Other base metals.
3 Metal products:
    A. Metallic containers.
    B. Wire cordage; wire screen, netting, and fencing; bale ties.
    C. Metal leaf and foil; metallics.
    D. Nails, screws, bolts, and other fasteners; locks; builders' hardware: furniture, luggage, and saddlery hardware.
    E. Tools, cutlery, forks, and spoons.
    F. Miscellaneous metal products.
    G. Metal products not specially provided for.

XIII

Part

4 Machinery and mechanical equipment:
  - A. Boilers, nonelectric motors and engines, and other general-purpose machinery.
  - B. Elevators, winches, cranes, and related machinery; earth-moving and mining machinery.
  - C. Agricultural and horticultural machinery; machinery for preparing food and drink.
  - D. Pulp and paper machinery; bookbinding machinery; printing machinery.
  - E. Textile machines: laundry and dry-cleaning machines; sewing machines.
  - F. Machines for working metal, stone, and other materials.
  - G. Office machines.
  - H. Other machines.
  - J. Parts of machines.

5 Electrical machinery and equipment.

6 Transportation equipment:
  - A. Rail locomotives and rolling stock.
  - B. Motor vehicles.
  - C. Aircraft and spacecraft.
  - D. Pleasure boats; floating structures.

SCHEDULE 6. - METALS AND METAL PRODUCTS
Part 5. - Electrical Machinery and Equipment

	Item	Articles	Rates of Duty	
			1	2
		Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and television cameras; record players, phonographs, tape recorders, dictation recording and transcribing machines, record changers, and tone arms; all of the foregoing, and any combination thereof, whether or not incorporating clocks or other timing apparatus, and parts thereof:		
353(19, 36)	685.10	Television cameras, and parts thereof..........	12.5% ad val.	35% ad val.
353(20, 28, 36)	685.20	Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and parts thereof.......	12.5% ad val.	35% ad val.
353(23, 36), 1542	685.30	Record players, phonographs, radio-phonograph combinations, record changers, turn-tables, and tone arms................................	14% ad val.	35% ad val.
372(5, 69), 1542	685.40	Tape recorders and dictation recording and transcribing machines, and parts thereof.....	15% ad val.	30% ad val.
353(23, 36), 367(a), 368(a), 1542	685.50	Other..	15% ad val.	35% ad val.
353(26, 36)	685.60	Radio navigational aid apparatus, radar apparatus, and radio remote control apparatus, all the foregoing and parts thereof.........................	15% ad val.	35% ad val.
353(27, 36)	685.70	Bells, sirens, indicator panels, burglar and fire alarms, and other sound or visual signalling apparatus, all the foregoing which are electrical, and parts thereof...............................	10.5% ad val.	35% ad val.
353(26, 36)	685.80	Electrical capacitors, fixed or variable...........	15% ad val.	35% ad val.
353(2[illegible], 31, 36)	685.90	Electrical switches, relays, fuses, lightning arresters, plugs, receptacles, lamp sockets, terminals, terminal strips, junction boxes and other electrical apparatus for making or breaking electrical circuits, for the protection of electrical circuits, or for making connections to or in electrical circuits; switchboards (except telephone switchboards) and control panels; all the foregoing and parts thereof..................	17.5% ad val.	35% ad val.

TARIFF CLASSIFICATION STUDY

Schedule 6, Part 5.--Electrical Machinery and Equipment

Statutory, Trade Agreement, and Related Provisions in Effect December 31, 1959

Revised Tariff Item	Tariff Act of 1930, as Amended and Modified, and Related Provisions of Law				
	Par.	Statutory Description of Articles	Subclassification of Articles Schedule A 1957 Commodity Nos.	Trade Agreement Rate	Full Rate
682.20 685.50	Ex. 368(a)	Clocks, clock movements, including lever movements, clockwork mechanisms, time-keeping, time-measuring, or time-indicating mechanisms, devices, and instruments, synchronous and subsynchronous motors of less than one-fortieth of one horsepower valued at not more than $3 each, not including the value of gears or other attachments, * * *; (1) I: valued at not more than $1.10 each, * * *; valued at more than $1.10 but not more than $2.25 each, * * *; valued at more than $2.25 but not more than $5 each, * * *; valued at more than $5 but not more than $10 each, * * *; valued at more than $10 each, * * *; (2) any of the foregoing shall be subject to an additional duty of * * *; (3) any of the foregoing containing jewels shall be subject to an additional cumulative duty of * * * for each such jewel.	As Set Forth in U.S. Import Duties (1958) Par. 368(a) Clocks, clock movements (including lever movements), time-indicating, time-keeping, or time-measuring devices, instruments, and mechanisms, and any device, instrument, or mechanism intended or suitable for indicating or measuring time (not including synchronous or subsynchronous motors under 1/40 horsepower and valued not over $3 each without counting the value of gears or other attachments, and except the articles described or enumerated in paragraph 367), whether or not in cases, containers, or housings, valued each--		
			[1] Not over $1.10 .... 9590 350	27-1/2¢ ea. + 32-1/2% ad val.	55¢ ea. + 65% ad val.
			[2] Over $1.10 but not over $2.25 .... 9590 360	50¢ ea. + 32-1/2% ad val.	$1 ea. + 65% ad val.

EXHIBIT B

89TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 342

TARIFF SCHEDULES TECHNICAL AMENDMENTS ACT OF 1965

MAY 12, 1965.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MILLS, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 7969]

The Committee on Ways and Means, to whom was referred the bill (H.R. 7969) to correct certain errors in the tariff schedules of the United States, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

A. BACKGROUND

The tariff schedules of the United States, which were made effective August 31, 1963, by Presidential Proclamation 3548, resulted from the comprehensive study which the Congress had directed the Tariff Commission to make in the Customs Simplification Act of 1954 and the consideration which was given to this study in connection with the Tariff Classification Act of 1962.

The former act directed the Commission to make a comprehensive study of the laws prescribing the tariff status of imported articles and to compile a revision and consolidation of those laws which would accomplish to the extent practicable the following purposes:

(1) Establish schedules of tariff classifications which will be logical in arrangement and terminology and adapted to the changes which have occurred since 1930 in the character and importance of articles produced in and imported into the United States and in the markets in which they are sold.

(2) Eliminate anomalies and illogical results in the classification of articles.

(3) Simplify the determination and application of tariff classifications.

SECTION 53. COMBINATION ARTICLES CONTAINING WATCH OR CLOCK MOVEMENTS

The articles to which section 53 relates are combination articles such as clock-radios, clock-thermometer-barometer combinations, and pocket lighter-watch combinations.

1. Treatment under the old tariff schedules

Paragraph 367(a) of the old schedules provided for watch movements and paragraph 368(a) provided for clock movements. It was the practice under the old schedules to separately classify such movements under paragraphs 367 and 368 in certain circumstances when the imported article consisted of a combination article containing such a movement as a significant component. Thus, in a clock-radio combination, the clock movement was classified separately in paragraph 367(a) or 368(a) and the rest of the article was classified as a radio under paragraph 353.

2. Treatment under the tariff schedules of the United States

In the TSUS, an effort was made to treat specifically with the known popular forms of the combination articles in question which had previously been the subject of the aforementioned customs practice in item 685.50 (clock-radios), item 711.65 (barometer-thermometer-clock, etc.) and items 756.02-.10 (lighter-watch).

3. Proposed changes

Under the new tariff structure an incentive exists to combine watch and clock movements with inexpensive articles in an effort to avoid the relatively higher rates applicable to such movements. Although it is not clear that any such attempt would succeed, the addition of the proposed new headnote would restore the substance of the old practice, by providing a separate rate on the watch and clock movements except in certain specified combinations.

Inasmuch as the rate for clock-barometer-thermometer, etc., combinations in item 711.65 included an increment based on the rate for a movement of the type usually found in such combinations, the conforming amendment in subsection (b) of section 53 would remove such increment.

SECTION 54. EDITORS, AND COMBINATION EDITOR-SPLICERS, FOR MOTION-PICTURE FILMS

1. Treatment under the old tariff schedules

Motion-picture editors and editor-splicers had been classified under paragraph 353 of the old tariff schedules at 11.5 percent ad valorem as articles having an electrical element as an essential feature. Immediately prior to the effective date of the new schedules, and too late to be reflected therein by the Tariff Commission, there was an administrative ruling (T.D. 55963) that such articles were optical instruments properly classifiable under paragraph 228(b) at the rate of 35 percent ad valorem.

2. Treatment under the tariff schedules of the United States

Item 722.52 of the new schedules provides for editors and editor-splicers at 11.5 percent ad valorem.

Chairman **Gibbons**. Thank you.

Mr. Vander Jagt.

Mr. **Vander Jagt**. Thank you, Mr. Chairman.

I understand as the bill defines clock radios now, there is no manufacturer of clock radios—of the product that is the subject of this bill—in the United States?

Mr. **Pearlman**. To the best of our knowledge. We are not aware of any. The Electronic Industries Association is not aware of any. Import penetration for all consumer radios except hi-fi radios was 100 percent of the U.S. market.

Mr. **Vander Jagt**. The only thing the existing duty does is increase the price to the American consumer?

Mr. **Pearlman**. That is right.

Mr. **Vander Jagt**. I have no further questions. Thank you.

Mr. **Pearlman**. Thank you.

Chairman **Gibbons**. Thank you very much.

The next bill is H.R. 4890 by Mr. Evans of Iowa. We have with us Mr. Cooper Evans of Iowa.

Mr. **Schulze**. I would like to welcome our colleague. I heard a rumor today is his birthday.

STATEMENT OF HON. COOPER EVANS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Mr. **Evans**. Yes, that is true. As a matter of fact, I just turned 39 today.

Mr. **Schulze**. Congratulations.

Chairman **Gibbons**. Happy to have you here. Happy birthday.

You may proceed. We do have other people on this panel. They could all come forward at the same time.

We will hear from Salsbury Laboratories, Diamond Shamrock, and the National Pork Producers.

Mr. **Evans**. Thank you, Mr. Chairman.

Members of the committee, I truly appreciate the opportunity to testify today in support of my bill, H.R. 4890, which proposes to suspend tariff duties on three sulfa drugs. Because of the number of other bills that you have under consideration today and because there are other witnesses here to comment on this legislation, I will keep my comments very brief.

Chairman **Gibbons**. If you have formal comments, we will put them all in the record.

Mr. **Evans**. Thank you, Mr. Chairman.

My bill proposes the suspension of duties on three sulfa drugs which are important to the American agricultural community. These drugs are used directly in the treatment of animal infection or indirectly in the production of other drugs which threat such infection.

I believe it is in the best interests of American farmers for us to suspend the duties on these drugs. I have three reasons for introducing the legislation.

First, elimination of the duties would lower costs to the farmer. It is impossible to accurately predict the size of this savings since much of the price to the farmer of such drugs is strongly influenced by market demand. I believe the farmer will see savings as a result of the increased competitiveness of these drugs with others on the market.

Second, I believe the current duties are unreasonably and unnecessarily high. The current duty rate for one of these drugs, sulfathiazole, is 29.4 percent and the duty rate on the other two, sulfaguanidine and sulfapyridine, is 22.5 percent.

Although these rates are being gradually reduced each year, they are in the meantime keeping prices unnecessarily high.

The third reason for this bill is that two of the drugs, sulfapyridine and sulfathiazole, are not produced domestically. The third drug, sulfaguanidine, is produced domestically, but only by one producer as an intermediate in the production of another drug sulfamethazine.

Mr. Chairman, when a foreign product is not in competition with a domestic product, there is little reason to subject it to an import duty, much less a high duty, as is the case with these sulfa drugs. This duty unnecessarily increases the price of the product to the consumer and adds to inflation. I hope that the committee will favorably consider this legislation.

It is my understanding that the Commerce Department has given a favorable comment to this bill, with the recommendation that the duty suspension be a temporary one, until June 30, 1985. I would have no objection to amending the bill in this fashion.

Mr. Chairman, this concludes my statement and I would now like to introduce to the committee, Mr. Clarus Galloway, a constituent of mine from Charles City, Iowa. Mr. Galloway is the materials manager of Salsbury Laboratories and will be the next witness on H.R.4890.

Thank you.

Chairman Gibbons. Mr. Galloway.

STATEMENT OF CLARUS GALLOWAY, MATERIALS MANAGER, SALSBURY LABORATORIES, ACCOMPANIED BY C. E. ANDERSON, VICE PRESIDENT OF MARKETING

Mr. Galloway. Mr. Chairman, I am Clarus Galloway, Salsbury Laboratories, Charles City, Iowa. Accompanying me is C. E. Anderson, our vice president of domestic marketing.

Mr. Chairman, Salsbury Laboratories favors passage of H.R. 4890 which would eliminate the tariff on sulfathiozole, sulfaguanidine, and sulfapyridine. We feel the present tariff represents an unrealistic cost to the American livestock producer.

We feel the passage of H.R. 4890 represents a realistic benefit to the American manufacturers producing and marketing sulfa products to agriculture and a benefit to livestock producers through reduced cost of medication, all this within the framework of world supply and demand.

H.R. 4890 makes possible substantial savings to the American livestock producer in his battle to realize a profit.

I think we all know that the American farmer and the American livestock producer has been under considerable strain in trying to realize a profit in today's economy.

The Department of Commerce has already surveyed the chemical industry—particularly those with an interest in the sulfa market—

and found a general acceptance in favor of passage of H.R. 4890. Again, as Mr. Cooper Evans referenced, the sunset clause has been included in this bill.

Many other small manufacturers of animal health products and Salsbury Laboratories has learned that there is a very strong support on the part of our competitors for the passage of H. R. 4890. Of the three sulfa products covered in H.R. 4890, only one, sulfapyridine, has applications of any significance outside and within the animal health industry.

Sulfapyridine outside of the animal health industry is used as an intermediate in the manufacture of sulfasalazine, more commonly referred to as SASP, which is a highly effective therapeutic drug for the treatment of ulcerative colitis in humans. Presently Salsbury Laboratories is the only domestic manufacturer of SASP.

At this point, I have learned that there is opposition to this bill by American Cyanamid, and they will be entering a witness in their behalf opposing this on the basis of a Swedish company planning to build, or, in fact, in the process of construction of a plant in the Virgin Islands to produce SASP.

Salsbury Laboratories today is very, very hard-pressed to market SASP as a competitive product to the imported SASP. If the duty is not removed from sulfapyridine, it will allow the import from the Virgin Islands of SASP duty free and would totally force us out of the market.

In essence, what we will be doing is creating a—not only domestic but worldwide monopoly, only one world producer for SASP.

The elimination of duties on sulfapyridine, sulfathiozole, and sulfaguanadine will allow chemical manufacturers, American chemical manufacturers, to utilize these as intermediate chemicals in the production of end product sulfonamides, which to a large extent is presently being performed by foreign manufaturers.

In summary, Salsbury Laboratories feels that the passage of H.R. 4890 will reduce livestock production costs, increase domestic employment within the chemical industry, and provide a competitive edge to domestic producers over foreign manufacturers. Not to be overlooked is the price reduction potential for SASP to those people who suffer from colitis.

[The prepared statement follows:]

STATEMENT OF CLARUS M. GALLOWAY, MATERIALS MANAGER, SALSBURY LABORATORIES, INC., CHARLES CITY, IOWA

Mr. Chairman, by way of introduction, Salsbury Laboratories, Inc., is a small to medium size company, which has a long-term commitment to supplying products and services to the animal health industry. Quality products at competitive prices have enabled the company to earn the confidence of lifestock raisers in their efforts to produce meet and eggs at a profit.

Salsbury favors passage of H.R. 4890 because we feel it represents a realistic tariff reduction of benefit to American manufacturers producing and marketing sulfa products to agriculture—within the frame work of world supply and demand.

In addition, H.R. 4890 makes possible substantial savings to the American livestock producer in his battle to realize a profit and ultimately to the consumer in better prices for meat and eggs.

Elimination of the tariff is not going to guarantee the price of sulfa products to the farmers will stay at their present levels. However, elimination of the tariff will allow American manufacturers to purchase these sulfa products on the world market without the duty of 22 to 30 percent being added on top of the purchase price depending on which sulfa is purchased. The animal health business is highly competitive and for this reason we are confident that these savings of 22 to 30 percent in duties will work to an advantage for the farmer and consumer.

The Bureau of Economics, Chemical Division, Department of Commerce, in a recent survey, sampled the chemical industry, particularly those who have an interest in the sulfa market, and found a response generally favoring the passage of this bill.

In contact with other suppliers of sulfa drugs to the animal health industry, we found strong support for the passage of this bill. Their support apparently is based on the strong hope that sulfa-bearing products can be supplied to the lifestock industry at a lower cost—no doubt they also feel this provides a competitive position.

There has been some concern registered about the illegal use of sulfa-guanidine and sulfapyridine because they allegedly are not approved by the U.S. Food and Drug Administration (FDA) for veterinary use. We disagree with this contention as there are a number of companies who presently have sulfapyridine approved for interim use in combination with other sulfa drugs. Also, because of the government effort to eliminate sulfa residues in slaughter animals, it makes little sense that producers would take the chance of using these drugs other than according to the label directions.

Sulfapyridine also has application outside the animal health industry. It is used as an intermediate in the manufacture of sulfasalazine (SASP), a highly effective therapeutic drug for treatment of ulcerative colitis in humans. Salsbury Laboratories is the only domestic manufacturer of SASP. Yet, due to the cost of the raw material sulfapyridine, a substantial portion being duty, we capture less than 25 percent of the total product sold in the United States.

The chemical product sulfaguanadine has no direct uses in the animal health industry. However, it is an intermediate in the manufacturing of widely used sulfamethazine and soium sulfamethazine.

Importation of sulfaguanadine duty-free, and used to manufacture sulfamethazine and sodium sulfamethazine will not only result in competition to benefit livestock producers and consumers, but will also increase American employment versus chemical manufacture in other countries.

Sulfathiazole is also a very widely used sulfa drug in the animal health industry. Sulfathiazole and its sodium salt are used in near equal volume in the industry. Removal of the import duty of sulfathiazole will encourage conversion of chemical products to its salt form, sodium sulfathiazole. Presently, substantial quantities of sulfathiazole from China, which does not have FDA approved plants, is being converted to sodium sulfathiazole in West European countries having FDA approved plants and it then becomes the product of the converting company. Passage of H.R. 4890 will allow the importation of sulfathiazole for conversion by American industry at a competitive edge over sodium sulfathiazole from other companies.

In summary, it is our contention, along with the support of many companies who are our competition, that through passage of H.R. 4890, American manufacturers will be able to offer more economical sulfa-bearing products to the animal and agricultural industry and lower priced end products to the ultimate consumer. At the same time, passage of this bill will serve to stimulate American manufacturing of end use sulfa drugs now being produced in other countries.

[The following material was subsequently received:]

NOTE.—This document contains the unedited statements of American Cyanamid Company in opposition to Selective Tariff Reductions, bills H.R. 4890 and S. 1979. To more fully examine the important issues, the affirmative position of Salsbury Laboratories, Inc. is presented in the paragraphs headed "Salsbury Position."

SELECTIVE TARIFF REDUCTIONS—H.R. 4890 AND S. 1979

Issue.—Whether legislation should be enacted to selectively eliminate U.S. tariffs on certain chemical products (sulfaguanadine, sulfapyridine and sulfathiazole).

Cyanamid interest.—Cyanamid produces sulfaguanadine and converts it into sulfamethazine at its Bound Brook, New Jersey plant. More than 100 people are employed in this process, with a payroll of $2 million per year. In addition, Cyanamid also produces sulfapyridine but discontinued that production as a result of foreign price competition.

Salsbury position.—Cyanamid presently—and has in the past—purchased significant amounts of sulfamethazine on the world market. Thus it is doubtful that a tariff elimination would have much impact on the employment at Bound Brook, N.J.

Background.—Bills have been introduced in the House and Senate (H.R. 4890 and S. 1979) by Rep. Cooper Evans and Sen. Charles Grassley, both Iowa Republicans, to unilaterally eliminate U.S. tariffs on sulfaguanadine, sulfapyridine and sulfathiazole. The sponsors claim that: 1) rates of duty are unreasonably high; 2) that there is no domestic production of these sulfa drugs, and 3) that elimination will lower prices paid by farmers, thus lowering their cost of production.

Salsbury position.—

1. We believe the rates of duty are unreasonably high and unnecessarily high.
2. No American company presently manufactures sulfapyridine or sulfathiazole. Cyanamid is the only producer of sulfaguanadine and uses it as an intermediate in producing sulfamethazine. However, Cyanamid is a major purchaser in the world market of sulfamethazine despite its ability to manufacture enough to meet its own requirements.
3. Elimination of the duty would lower the price of sulfa products to the consumer because manufacturers' production costs would be less. However, the price of sulfa products will fluctuate in relation to supply and demand.

Investigation of these claims shows them to be erroneous:

(1) Rates of duty specified in the bills are the "column II" rates which apply only to a handfull of communist countries. All current foreign producers, even though they are Eastern European countries, have been accorded most favored nation treatment. Therefore, applicable rates of duty for sulfaguanadine and sulfapyridine, are 11.6 percent not 24.6 percent as cited; for sulfathiazole—15 percent not 32.25 percent. Further, these rates reflect reductions, being phased in over six years, agreed to by the U.S. in the Multilateral Trade Negotiations concluded in 1979.

Salsbury position.—The rates quoted in the bills do apply to all countries with most favored nation status. The 11.6 percent tariff on sulfaguanadine and sulfapyridine and 15 percent on sulfathiazole will not be in effect under the present agreement until 1987. Presently the tariff on sulfaguandine and sulfapyridine are approximately 22 percent and 30 percent on sulfathiazole.

(2) Two of these drugs, sulfaguanadine and sulfapyridine, are not approved for veterinary use by the U.S. Food and Drug Administration. However, sulfaguanadine is the essential intermediate in the production of sulfamethazine which is widely used by American farmers and is produced in the U.S. by American Cyanamid Company. Sulfaguanadine demonstrates so little effectiveness that it is doubtful any manufacturer would ever receive approval from FDA to market it. A reduction in tariffs for these two drugs would only encourage their illegal use in agriculture. Sulfamethazine is similar to the other sulfas, and it and sulfathiazole are widely used to maintain the health and productivity of food animals.

Salsbury position.—We see no evidence that a tariff reduction would cause any misuse or abuse of these drugs or any reason for American manufacturers to offer these drugs for retail usage. Also, because of the government effort to eliminate sulfa residues in slaughter animals, it makes little sense that producers would even take the chance of illegally using these drugs.

(3) Resultant savings to farmers would be minimal. Since tariffs are actually lower than indicated in the bills, and subject to further phased reductions, it is doubtful just how much would be passed onto the farmer. If the total value of the eliminated duty on sulfathiazole were passed directly to the farmer, it would amount to $0.16 cents per ton of feed purchased. In January, 1982, the U.S. Department of Agriculture estimated the weighted average cost per ton of feed purchased was approximately $167. Thus if this 16 cents a ton did reach the farmer, the savings would be approximately one-tenth of one percent. Further, foreign producers of these sulfas are all centrally planned economies—Hungary, Yugoslavia and until recently, Poland. Prices are not set according to market forces, but rather by government policy and other forces.

Salsbury position—Savings to farmers.—Elimination of the tariff is not going to guarantee the price of sulfa products to the farmers will stary at its present level. However, elimination of the tariff will allow American manufacturers to purchase these sulfa products on the world market without the duty of 22 to 30 percent being added on top of the purchase price, depending on which sulfa is purchased. The animal health business is highly competitive and of for this reason we are sure these savings of 22 to 30 percent in duties will work to an advantage for the consumer.

The figure of 16 cents savings per ton of feed may or may not be correct bacause we do not know this was figured. However, this figure does not refer to the large amounts of sulfas that are used by farmes in other modes of administration, such as drinking water, boluses, and injectables.

It is true that the communist countries are the major manufacturers of these sulfa drugs. However, the world market is still one of supply and demand and these countries compete with each other for market share in the same way as do free-world companies.

Cyanamid position.—Cyanamid is a multinational company fully committed to the principles and practice of free and open trade. Cyanamid opposes these bills because they circumvent the established and proven process of government to government negotiations to achieved mutual reciprocal tariff reductions and the removal of other trade barriers.

As a result of the recently concluded Multilateral Trade Negotiations, tariffs, in general, have been reduced to the point where they no longer constitute significant barriers in the U.S. This is not so elsewhere.

Section 124 of the Trade Act of 1979 gives the President authority to negotiate reductions in tariffs and other barriers to trade. This authority, which expired January 3 of this year must be extended so that the President is able to take advantage of negotiation opportunities as they arise and pursue improved market access for U.S. goods abroad. Cyanamid opposes H.R. 4890 and S. 1979 and their unilateral approach to tariff cutting.

Salsbury position summary.—Salsbury Laboratories, Inc., a small to medium size company, has a long-term commitment to supplying products and services to the animal health industry. Quality products at competitive prices have enabled the company to earn the confidence of livestock raisers in their efforts to produce meat and eggs at a profit.

Salsbury favors passage of H.R. 4890 and S. 1979 which represent a realistic tariff reduction benefiting American manufacturers producing and marketing sulfa products to agriculture—within the frame work of world supply and demand.

SALSBURY LABORATORIES, INC.,
Charles City, Iowa, June 2, 1982.

Representative DAN ROSTENKOWSKI,
House of Representatives,
Rayburn House Office Building, Washington, D.C.

DEAR REPRESENTATIVE ROSTENKOWSKI: Thank you for the opportunity to express our views in favor of H.R. 4890 at the Committee hearing held on May 26, 1982.

We would appreciate your consideration that rejection of this bill will enable Pharmacia Laboratories, Inc., a Swedish company and producer of sulfasalazine (SASP), to manufacture the product (sulfapyridine is the intermediate) in the Virgin Islands and import SASP into the United States duty-free. This wil force Salsbury Laboratories, Inc., the only U.S. manufacturer of SASP, out of production of the drug and create a virtual monoply on a world-wide basis for the foreign producer. Thus it is to the distinct advantage of Pharmacia to have H.R. 4809 rejected and the duty remain on sulfapyridine to keep prices higher. Accordingly, the U.S. livestock producer then will continue to pay higher than necessary prices for sulfapyridine drugs.

Also, at the hearing opposition was registered concerning sulfamethazine production in the U.S. if H.R. 4890 is passed. It is a well known fact that American Cyanamid is one of the largest buyers in the world market place of sulfamethazine. It is our opinion that they purchase nearly 50 percent of their requirements in an effort to hold sulfamethazine prices artificially high. If duty-free sulfaguanidine is a threat to American Cyanamid's plant employment, why doesn't Cyanamid support H.R. 4890 and purchase sulfaguanidine on the world market for their production of sulfamethazine? This would result in reduced sulfamethazine prices to the livestock industry and would maintain employment at the Cyanamid plant.

Thank you very much for your attention and we respectfully request your support of H.R. 4890.

Sincerely,

C. M. GALLOWAY,
Materials Manager.

ADDITIONAL TESTIMONY OF CLARUS M. GALLOWAY, MATERIALS MANAGER OF SALSBURY LABORATORIES, INC., CHARLES CITY, IOWA.

Mr. Louis Schneider, Counsel for Pharmacia Laboratories, Inc., a Swedish company, referred to the opening of a sulfasalazine (SASP) production facility in the Virgin Islands. If H.R. 4890 is rejected by this committee, Pharmacia will be able to bring SASP into the U.S. duty free. This will put the only U.S. producer, Salsbury Laboratories, Inc., out of SASP production and will encourage monopolistic practices on a world wide basis. Thus it is to the distinct advantage of Pharmacia to have H.R. 4890 rejected and the duty remain on sulfapyridine. At the same time, rejection of H.R. 4890 will work to the disadvantage of the American livestock producer who must buy sulfapyridine drugs at higher prices because of the duty on the product.

American Cyanamid has registered opposition to the removal of duty from sulfaguanidine use in production of sulfamethazine. It is a well known fact in the industry that American Cyanamid is one of the largest buyers of sulfamethazine in the world marketplace. It is our belief Cyanamid purchases nearly 50% of their total requirements. If duty-free sulfaguanidine is a threat to American Cyanamid's plant employment, why doesn't Cyanamid support H.R. 4890 and purchase sulfaguanidine on the world market for their production of sulfamethazine? This would result in reduced sulfamethazine prices to the livestock industry and would maintain employment at the Cyanamid plant.

Chairman GIBBONS. Mr. Skapek.

STATEMENT OF GUSTAVE J. SKAPEK, MANAGER, MAJOR PROJECTS PURCHASING, CHEMICAL UNIT, DIAMOND SHAMROCK CORP., ACCOMPANIED BY ROBERT HILL, SENIOR COUNSEL, CHEMICAL UNIT

Mr. SKAPEK. Thank you, Mr. Chairman.

My name is Gustave Skapek. I am manager of major projects purchasing, chemical unit. With me is Robert Hill, senior counsel, chemical unit.

I am speaking on behalf of Diamond Shamrock Corp., which produces a variety of agricultural chemicals and animal health products for domestic and foreign markets. I have been directly involved in purchasing sulfathiazole for approximately 4 years.

Two of the major products of Diamond Shamrock's animal health division are CSP-250 and CSP-500, combinations of chlortetracycline, sulfathiazole, and penicillin, used widely by pork producers to prevent and control disease, promote growth, and improve feed efficiency. Diamond Shamrock holds approved new animal drug applications from the Food and Drug Administration to make and sell CSP-250 and CSP-500 for feed use. FDA has recognized the effectiveness of these products in reducing the incidence of cervical abscesses, in treating bacterial swine enteritis, and in maintaining weight gains in the presence of atrophic rhinitis.

Diamond Shamrock purchases all of its requirements of sulfathiazole abroad, since the drug is no longer produced domestically. Indeed, before the current tariff schedule became effective, all domestic production had come to an end. We formerly purchased the drug from a major American pharmaceutical house, but that company was unwilling to increase its capacity to meet Diamond Shamrock's growing needs and ultimately discontinued production of sulfathiazole completely. Diamond Shamrock was forced to find a foreign source of supply, since there was, and continues to be, no other domestic producer.

Because of low profitability due to the relatively small volume of sulfathiazole consumption and environmental problems associated with its manufacture, we do not believe that domestic production of sulfathiazole will be resumed.

The current tariff schedule is based upon a survey of chemicals produced in the United States as of a particular date. On that date, the previously mentioned American supplier was still producing sulfathiazole. Shortly after that date, however, it discontinued production and has not produced it since.

Given the announced intention of the multilateral trade negotiations to reduce tariffs, we are unable to explain the dramatic increase in the duties assessed on sulfathiazole from 12.5 percent to 35.1 percent in the first year. We must assume, however, that no increase would have occurred, had there been no domestic production in the first place. Unfortunately, the law made no provision for the downward adjustment of duties upon the discontinuance of domestic production. It is our understanding that such adjustment may only be accomplished by legislation and that it would not be an appropriate subject for international negotiation. In our view, reducing the duty of sulfathiazole is simply lifting a burden imposed upon American industry for no apparent reason.

CSP-250 and CSP-500 are directly competitive with several other combination drugs produced in the United States—one of which accounts for 60-65 percent of the market for such products. These other combinations also include chlortetracycline and penicillin, but use sulfamethazine instead of sulfathiazole.

As a practical matter, Diamond Shamrock cannot substitute sulfamethazine for sulfathiazole to offset the competitive disadvantage imposed by the increased duties; because sulfathiazole affords certain advantages in use over sulfamethazine, we would not wish to make that change.

Because it protects no domestic source of sulfathiazole, the current tariff structure represents an unnecessary cost which must either be passed on to the consumer, if market conditions permit, or reduce profits, if they do not.

While the impact of the increased duty upon the individual American farmer may be small, its cumulative effect upon my company and its ability to compete is very substantial, ranging from several hundred thousand to over a million dollars annually, depending upon volume and prices. For this reason, we support passage of House bill 4890.

I would be happy to answer any questions you may have. Thank you for the opportunity of presenting our views.

[The following was subsequently received:]

Diamond Shamrock

Law Department
Chemical Unit

June 3, 1982

The Honorable Sam M. Gibbons
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Gibbons:

Thank you again for the opportunity to appear before your subcommittee last Wednesday in support of Congressman Cooper Evans' bill (H.R. 4890) to suspend the duty on sulfaguanadine, sulfapyridine and sulfathiazole. A copy of our statement is enclosed for your convenience.

The purpose of this letter is to respond to certain issues raised in the testimony of American Cyanamid to the effect that sulfamethazine (the sulfa component in its product) and sulfathiazole (the sulfa component in our product) are "interchangeable products in animal disease therapy and prophylaxis." While that claim may be true in the sense that the two products are used for the same purposes, it obscures important differences between the products, differences which make our product a desirable alternative to products containing sulfamethazine in the view of a substantial percentage of American pork producers.

The principal differences between products containing sulfathiazole and products containing sulfamethazine have to do with withdrawal times and the incidence of violative residues, as follows:

1. Withdrawal Time. As part of its approval process, FDA establishes the "withdrawal time", the number of days between the last use of the drug and slaughter. The length of the withdrawal time depends upon how long it takes for the drug to pass through the animal's system. The withdrawal time is established to assure that the animal is not slaughtered before all residues of the drug have been excreted. Our sulfathiazole product has been granted a seven-day withdrawal time, while sulfamethazine products are required to be withdrawn fifteen days before slaughter. The longer withdrawal period imposes a significant economic burden on the livestock producer.

2. Sulfa Residue Violations. In the late 1970's, the number of swine carcasses rejected by USDA inspectors began to rise substantially, evidencing perhaps the considerable pressure on the livestock producer imposed by the withdrawal period. Governmental studies of this problem disclose that violations were almost exclusively attributable to the use of sulfamethazine, rather than sulfathiazole. While the rate of violations has been substantially reduced through education and improved management techniques, the sulfamethazine residues continue to be a problem. Notwithstanding reformulation of the product to reduce the amount of residues attributable to cross-contamination of feeds, the problem remains because of the manner in which the animal metabolizes sulfamethazine. Meanwhile, FDA has rejected petitions to relax its standards on sulfamethazine residues.

3. The enclosed articles provide greater detail on the drug residue problem and suggest methods to resolve it, including the substitution of sulfathiazole (Penumarthy, L., Trabosh, H.M., Clark, A.M., Conrey, J.S., Rader, W. A. and Spaulding, J.E.: Sulfa Drug Residues in Uncooked Edible Tissues of Cattle, Calves, Swine and Poultry. Feedstuffs (October 13, 1975); Biehl, L.G.: The Sulfa Issue. Feed Management (March, 1979); Sulfa Drug Management and Surveillance. Pig American (January, 1982).

For the above reasons, it is clear that products containing sulfathiazole may very well be preferred by the American pork producer. They also strongly suggest that it would be inadvisable to continue a punitive tariff on a drug which may be an important solution to the continuing sulfa residue problem. Indeed, if studies now being conducted as part of the National Toxicology Program disclose additional problems with sulfamethazine, the desirability of an alternative will increase.

American Cyanamid also claimed that passage of H.R. 4890 would put it at such a competitive disadvantage that the jobs of the hundred people involved in the production of sulfamethazine would be lost. This claim suggests that American Cyanamid makes all of its sulfamethazine requirements in this country, using sulfaguanadine as a raw material. While we cannot provide you with detailed information, it is our understanding that American Cyanamid in fact imports a substantial quantity of sulfamethazine, which is subject to a rate of duty considerably below that imposed upon sulfathiazole.

As to the hundred sulfamethazine jobs, we doubt that suspension of the duty on sulfathiazole would eliminate them. It must be remembered that American Cyanamid already has 60-65% of the market for these products. One must question whether the American consumer is likely to benefit where the market is dominated by a product protected by a duty of almost thirty percent. As we indicated in our presentation, we do not seek an unfair advantage over anyone. We do not believe it is conducive to a competitive market, however, to assess a 30% penalty on a small competitor, especially where it is unable to procure its needs domestically.

Finally, American Cyanamid proclaims that "tariffs on these products are already being significantly reduced as a result of the last round of multilateral trade negotiations", and that "by 1987, U.S. tariffs on these sulfa drugs will be reduced to approximately 50% of their current level." This statement deliberately ignores the fact that the rate of duty on sulfathiazole was almost tripled to approximately 35% and that the 1987 rate, while it may be 50% of the current rate, will still be substantially higher than the rate in effect before implementation of the Trade Agreements Act of 1979. Clearly, the tariffs are not "already being signiticantly reduced.

Diamond Shamrock is an American producer of a competitive product which affords attractive advantages over sulfamethazine-bearing combinations. We are competitively disadvantaged by a punitively excessive tariff on a raw material unavailable to us from domestic sources.

For these reasons, we strongly support H.R. 4890. Should you be interested in additional information on this subject, please let us know.

Very truly yours,

Robert W. Hill
Senior Counsel

Enclosures
dp

cc: Hon. Cooper Evans

Sulfa Drug Residues in Uncooked Edible Tissues of Cattle, Calves, Swine and Poultry

Residue problems can most often be traced to one of five management errors by the producer. However, the drug industry, feed manufacturers, veterinary practitioners, and regulatory agencies also have essential roles in a residue prevention program.

By L. Penumarthy, H.M. Trabosh, G.M. Clark, J.S. Conrey, W.A. Rader and J.E. Spaulding

Residue Evaluation and Planning Staff, Scientific and Technical Services
APHIS, U.S. Department of Agriculture
Washington, D.C.

The Meat and Poultry Inspection Program (MPI) of the Animal & Plant Health Inspection Service (APHIS), under the U.S. Department of Agriculture (USDA), is responsible for assuring the wholesomeness of meats to the consumer. In addition to disease control, this agency continually monitors the livestock and poultry slaughtered at federal inspection plants for drug and chemical residues. The results of calendar year 1974 monitoring for sulfa drug residues in tissues of cattle, calves, swine and poultry are presented in this report. Also included are the findings of a special survey conducted in turkeys originating from the states of North Carolina and South Carolina.

Sulfa drugs have enjoyed popular veterinary use for many years, primarily due to their low cost and general effectiveness. They are administered to animals either by incorporating them in feeds and/or drinking water, or by parenteral routes. If not administered according to label directions, however, violative residues will occur in the edible tissues of treated animals at the time of slaughter. Meats containing such residues are judged unfit for human consumption and subject to condemnation.

TABLE 1. Sulfonamide Drugs Officially Approved for Use in Cattle (Including Calves) Raised for Meat

Drug	Reference	Dose and Route of Administration	Withdrawal requirements (days)	Tolerance in uncooked edible tissues (ppm)
Sulfaethoxypyridazine	121.200 520.2240 522.2240 556.630	Feed: 25 mg/lb body weight/day for 4 days	16	0.1
		Intravenously: 2.5 g/100 lb body weight/day for 4 days	16	0.1
		Drinking water: 2.5 g (in 1 gal)/100 lb body weight/day for 4 days	16	0.1
		Oral a) Tablet: 25 mg/lb body weight/day for 4 days	16	0.1
		b) Controlled Release Tablet: 100 mg/lb body weight	16	0.1
Sulfamethazine	121.200 546.110e 520.2260 556.670	Feed: 350 mg/head/day of each of sulfamethazine and chlortetracycline, for 28 days	7	0.1
		Oral a) 2.5 g sulfamethazine + 125 mg chlortetracycline/tablet 1 tablet/100 lb body weight/day for 3 days	5	0.1
		b) 22.5 g bolus 1 bolus/200 lb body weight	31	0.1
Sulfadimethoxine	522.2220 520.2220a 556.640	Intravenously: Initial dose of 25 mg/lb followed by 12.5 mg/lb/day	5	0.1
		Oral: 2.5 g/100 lb for one day followed by 1.25 g/100 lb/day for 4-5 days	7	0.1
Sulfachlorpyridazine	522.2200 520.2200 556.630	Intravenously: 30-45 mg/lb/day for 1-5 days	5	0.1
		Oral (as bolus in milk or milk replacer for calves): 30-45 mg/lb/day for 1-5 days	7	0.1

Under the New Animal Drug Regulations (NAD), the Food & Drug Administration (FDA) publishes the drug usage, pre-slaughter drug withdrawal requirements and permissible tolerances for residues of those sulfa drugs that can safely be used in various species of animals (Tables 1-3) (1,3). The list of sulfas is not complete; there are several sulfa drugs that do not come under the NAD classification of FDA at the present time. These sulfa drugs not under the NAD have been in wide use for many years because of their proven effectiveness. But, the pre-slaughter drug withdrawal requirements necessary for assuring absence of their residues in meats have not been established. In view of their frequent usage in livestock and poultry industry, FDA researchers have recently generated residue depletion data on a few of these sulfas (Table 4) (2,4-8).

Sulfa Residue Monitoring Findings

Under the MPI Residue Monitoring Program, animals are randomly chosen at the time of slaughter, the producers identified, and the liver, kidney and muscle tissue collected. The tissues are individually packaged and frozen before shipping to an MPI laboratory for sulfa analysis. The kidney tissue is analyzed first, and the liver and muscle tissues analyzed only if the kidney tissue is found positive. The residues are identified by the method of Tishler et al (9), and further identification and confirmation of specific sulfa residue is accomplished by employing thin layer and gas-liquid chromatography (10). The results of the survey are presented in Tables 5 and 6.

Swine had the highest incidence of sulfa residue violations. Of the 341 samples analyzed, 25 were positive (7.3% incidence). Sulfamethazine accounted for 84% of the sulfas identified and the residue quantities were comparatively higher than those of other identified sulfa residues.

TABLE 2. Sulfonamide Drugs Officially Approved for Use in Swine Raised for Meat

Drug	Reference	Dose and Route of Administration	Withdrawal requirements (days)	Tolerance in uncooked edible tissues (ppm)
Sulfaethoxypyridazine	121.200 520.2240a 556.650	Feed: 1000 g/ton in complete feed for 4-10 days	10	0
		Drinking water: 3.8 g/gal on first day followed by 1.9 g/gal for 3-9 days	10	0
Sulfamethazine	546.113b 558.630 556.670	Feed: Tylosin + Sulfamethazine, each 100 g/ton	5	0.1
		Drinking water: Chlortetracycline + sulfamethazine (both as bisulfates) 250 mg of each/gal for 28 days	7	0.1
Sulfathiazole	558.155 556.690	Chlortetracycline + Procaine penicillin + Sulfathiazole: 100 + 50 + 100 g/ton	7	0.1
Sulfachlorpyridazine	520.2200b 556.630	Drinking water: 20-35 mg/lb body weight/day for 1-5 days	4	0.1

Of the total 232 cattle tissue samples analyzed, three were positive for sulfa residues (1.3% incidence). Sulfamethazine was identified in two of the three positives and sulfaquinoxaline in the third. In calves, four of the total 298 samples were positive (1.3% incidence). Two of the positives were sulfamethazine and two sulfabromomethazine. Although the incidence of occurrence of sulfa residues was low, when sulfa residues were found, the levels were high, suggesting possible drug misuse.

In poultry, the residue incidence rate was higher in turkeys than in chickens: 6.0% and 1.9% respectively. Seven of 13 positives in turkeys were sulfadimethoxine, and four were sulfaquinoxaline. The other two positives in turkeys were sulfachloropyrazine and sulfamethazine. In chickens, six samples were positive in a total of 321 samples analyzed. Sulfamethazine accounted for four and sulfadimethoxine for two of the total six positives.

Special Sulfa Residue Survey in Turkeys of North Carolina and South Carolina

Some areas in North Carolina and South Carolina have had, in previous years, a high incidence of sulfa residue violations in turkeys. Several thousand pounds of processed birds were destroyed because of sulfa residues. Therefore, MPI conducted a special

TABLE 3. Sulfonamide Drugs Officially Approved for Use in Poultry Raised for Meat

Drug	Reference	Dose and Route of Administration	Withdrawal requirements (days)	Tolerance in uncooked edible tissues (ppm)
Chickens Sulfanitran	121.262 121.263 121.264 520.2330 556.680 558.35	Feed: Sulfanitran at levels of 272 or 181.6 g/ton is approved in combination with various amounts of other drugs	5	0
		Drinking water: Sulfanitran and aklomide 747 and 954 mg of each/gallon, for first 2 days followed by 374 and 477 mg of each/gal for 5 days	5	0
Sodium sulfachloropyrazine monohydrate	520.2184 556.625	Drinking water: 0.03% for 3 days	4	0
Sulfadimethoxine	520.2220a 556.640 558.575 121.262	Drinking water: 1.875 g/gal for 6 days	5	0.1
		Feed a) Sulfadimethoxine + ormetoprim 113.5 and 68.1 g/ton as sole ration	5	0.1
		b) Sulfadimethoxine + ormetoprim + 3-nitro-4-hydroxyphenylarsonic acid at 113.5 + 68.1 + 22.7 g/ton	5	0.1
Turkeys Sulfadimethoxine	520.2220a 556.640 558.575	Drinking water: 0.938 g/gal for 6 days	5	0.1
		Feed: sulfadimethoxine + ormetoprim 56.75 + 34.05 g/ton	5	0.1
		Feed: sulfadimethoxine + ormetoprim + ipronidazole 56.75 + 34.05 + 56.75 g/ton	4	0.1

TABLE 4. Sulfonamide Drugs Used for Therapy and Prophylaxis in Meat Producing Animals and Poultry and Not Covered Under New Animal Drug Classification

Drug	Species	Dose and Route of Administration	Withdrawal requirements (Days)
Sulfamethazine	Chickens	Feed 0.4% or Drinking water 0.1%	> 10
	Turkeys	Oral 143 mg/kg/day for 5 days, or 0.1% in water	> 14
Sulfathiazole	Swine	Oral 330 mg/kg/day for 3 days	10
Sulfaquinoxaline	Chickens	Feed 0.025% or Drinking water 0.025% for 14 days	> 7
	Turkeys	Drinking water 0.0175% for 7 days or 0.1% for 3 days	> 10
Sulfabromomethazine	Cattle, calves	Oral 60-90 mg/lb	10
		Intravenously or Intraperitoneally 30 mg/lb body weight	10

TABLE 5. Sulfonamide Residues in Liver (L), Kidney (K) and Muscle (M) Tissues of Cattle, Calves and Swine Slaughtered Under Federal Inspection: USDA Drug Residue Monitoring Survey, 1974.

Species	Samples Analyzed	Samples Positive	Number of Specific Sulfas Identified	Residue Quantity (ppm)
Cattle	733	3	1 Sulfaquinoxaline	L 1.3 K 0 M 0
			2 sulfamethazine	L 13.0, 2.5 K 8.6[2] M 5.4[2]
Calves	298	4	3 sulfamethazine	L 14.8, 0.3 K 20.9, 0.3 M 14.4[2]
			2 sulfabromomethazine	L 9.6, 0.8 K 10.4, 1.1 M 7.6, 0.5
Swine	341	25	21[1] sulfamethazine	L 0.2-3.9 (1.0) K 0.5-3 (1.3) M 0-2.8 (0.7)
			2 sulfabromomethazine	L 0.7, 0.8 K 0.1, 0.5 M 0, 0.3
			1 sulfanilamide	L 2.5 K 1.7 M 0.8
			1 sulfathiazole	L 0.6 K 0 M 0

1. The range of residues are represented for the three tissues and the average values are given in parentheses.
2. Sample not analyzed.

TABLE 6. Sulfonamide Residues in Liver (L), Kidney (K) and Muscle (M) Tissues of Poultry Slaughtered Under Federal Inspection: USDA Drug Residue Monitoring Survey, 1974.

Species	Samples Analyzed	Samples Positive	Number of Specific Sulfas Identified	Residue Quantity (ppm)
Chickens	331	6	4 sulfamethazine	L 0.2-0.5 (0.3) K 0-1.3 (0.4) M 0
			2 sulfadimethoxine	L 0.8, 1.1 K 0 M 0
Turkeys	317	13	1 sulfathiazole	L 0.6 K 0.2 M [2]
			7[1] sulfamethazine	L 0.4-8.4 (2.9) K 0.5-10.0 (3.5) M 0-1.4 (0.4)
			4 sulfaquinoxaline	L[3] 0.3-3.5 (1.3) K[3] 0.1, 1.2 M[3] 0.6, 1.1
			1 sulfachloropyrazine	L 3.1 K 7.8 M 0.3

1. The range of residues are represented for the tissues and the average values are given in parentheses.
2. Sample not analyzed.
3. Only two tissue samples analyzed.

TABLE 7. Sulfonamide Residues in Liver (L), Kidney (K) and Muscle (M) Tissues of Turkeys Slaughtered in North Carolina and South Carolina States Under Federal Inspection: USDA Drug Residue Surveillance Survey, August to December 1974.

Samples Analyzed	Samples Positive	Number of Specific Sulfas Identified	Residue Quantity (ppm)
170	8	2 sulfaquinoxaline	L 4.2, 0.2 K 10.8, 0.6 M 1.1, 0
		3 sulfadimethoxine	L[1] 0.2-0.6 (0.3) K[1] 0.6-2.4 (1.3) M[2] 0, 0.2
		3 sulfamethazine	L[1] 0.4-0.5 (0.4) K[2] 0.4, 1.1 M[2] 0, 0.5

1. The range of residues are represented for the tissues and the average values are given in parentheses.
2. Only two tissue samples analyzed.

survey in addition to the monitoring program of sulfa residues in young turkeys originating from these states. The special survey was conducted in the third and fourth quarters of 1974, since peak production of turkeys occurs during the latter half of the year.

Samples of liver, kidney and muscle tissues were obtained from each of six turkeys (five to six months old) from a producer. The tissues were individually frozen and sent immediately to chemistry laboratories for sulfa residue followed the procedure described under the monitoring survey. Results of the special survey are presented in Table 7.

Eight of 170 samples were positive for sulfa residues (4.7% incidence). The residues consisted of 3-sulfadimethoxine, 3-sulfamethazine and 2-sulfaquinoxaline.

Significance of Residue Findings

The survey results indicate that sulfa residues are a frequent problem in the livestock and poultry industry. Excessive residues should not occur if sulfas are used properly and the withdrawal requirements are observed carefully.

Approximately 50% of the sulfa residues identified in poultry belong to those not under the NAD category. While, withdrawal times of less than five days are established for sulfas approved for poultry under the NAD Regulations, studies indicate that the sulfas not under NAD generally require greater than 10 days for avoiding violative tissue residues.

Violative sulfa residues can be prevented. Primarily this is the responsibility of livestock producers. When MPI finds violative residues it is primarily indicative of a misuse. The livestock producer should take every precaution to prevent the occurrence of residues. Most often, the problem can be traced to one of the following management errors: (1) neglecting to follow the approved withdrawal time; (2) administering the drug over the recommended dose; (3) administering feed and water additives simultaneously when they should not be; (4) failure to clean storage tanks and feeders of medicated feed prior to changing to a non-medicated feed, and (5) improper storage.

However, the drug industry, feed manufacturers, veterinary practitioners and regulatory agencies also have essential roles in a residue prevention program. The drug industry has the obligation to advise the livestock producers on proper usage of sulfas and to conduct research to determine adequate withdrawal

(Turn to RESIDUES, page 30)

(Continued from page 20)

times. Feed manufacturers must exercise extreme caution in preparation, identification and proper delivery of medicated feeds. They should establish a quality control program accompanied by good manufacturing techniques. Veterinarians should prescribe proper drugs and advise their clients of the restrictions imposed on drug usage. The regulatory agencies should issue the necessary recommendations for those sulfas creating residue problems.

REFERENCES

1. Animal Drug Procedure, Reorganization and Republication; Federal Register, 40(48), Part II, (Thursday, March 13, 1975), Food and Drug Administration, Washington, D.C.

2. Animal Drug Use Guide: Beef, Dairy Cattle and Calves. Bureau Vet Med. D.H.E.W. Pub No. (FDA) 75-6004, March 1975.

3. Code of Federal Regulations, Title 21, Part 135, Subpart e. Revised as of April 1, 1974, Office of the Federal Register, General Services Administration, Washington, D.C.

4. Messer, H.D.: Antimicrobial Drugs in Food-Producing Animals. Vet Clin North Amer, 5(1), (Feb. 1975): 3-34.

5. Righter, H.F., Worthington, J.M., Zimmerman, H.E. and Messer, H.D.: Tissue Residue Depletion of Sulfaquinoxaline in Poultry. Am J Vet Res, 31(6), (June 1970): 1051-1054.

6. Righter, H.F., Worthington, J.M. and Messer, H.D.: Tissue-Residue Depletion of Sulfamethazine in Calves and Chickens. Am J Vet Res, 32(7), (July 1971): 1003-1006.

7. Righter, H.F., Worthington, J.M. and Messer, H.D.: Tissue-Residue Depletion of Sulfathiazole in Swine. J Anim Sci, 33(4), (Oct. 1971): 797-799.

8. Righter, H.F., Lakota, G.D. and Messer, H.D.: Tissue Residue Depletion of Sulfaquinoxaline in Turkey Poults. J Agr Food Chem, 21(3), (May-June 1973): 412-413.

9. Tishler, F., Sutter, J.L., Bathish, J.N. and Hagman, H.E.: Improved method for Determination of Sulfonamides in Milk and Tissues. J Agr Food Chem, 16, (1968): 50-53.

10. Unpublished Method for Sulfa Confirmation. Methods Development Laboratory, APHIS, USDA, Beltsville, Maryland.

USA

Sulfa drug management and surveillance

Sulfa residues in hog carcasses can lead to condemnations and other serious problems for producers. Quite often the residues are a result of cross-contamination of feed from delivery, handling, mixing and storage of ingredients and feeds. It has been estimated 70 to 80% of all hogs marketed in the US receive some form of sulfa during their lifetime. Due to the fact over 90% of the swine marketed are free of residue, it is obvious the drug can be handled so residues are not a problem.

Talk to your feed supplier, and make sure he knows what you want done to help prevent residues and make sure you understand what he can do to help. Non-medicated withdrawal feeds and medicated feeds should not be delivered in the same truck load. Request the truck be cleaned if used to deliver medicated feed prior to delivering non-medicated feed to your farm. If possible, be present at time of delivery to know exactly what feed was delivered. Make sure all ingredients or feeds are clearly identified and labeled and the feed is put into the proper bin. Make sure bins are clearly labeled.

Keeping your mixing and storage area clean and orderly will help prevent accidental mix-ups, the experts say. Keep medicated pre-mixes in their original containers separate from non-medicated ingredients used in withdrawal rations. If using containers such as garbage cans, label the can, not just the lid. Promptly clean up and dispose of any spilled medicated feed where it will not contaminate other feed.

Mixing equipment is notorious for cross-contamination of feed. Such equipment should be properly grounded to prevent electrostatic buildup which can cause sulfa particles to stick to the inside. A granular form of sulfa, rather than powdered, will help prevent this also. A master formula should be made up to insure accuracy during feed preparation. This list should include the proper order in which medicated and non-medicated feeds are added to the mixer. The items should be carefully checked off and initialed by the person making the feed to verify inclusion of all ingredients at the proper levels.

Add high potency pre-mixes into relatively large amounts of mixed ingredients for proper distribution throughout the batch. A good rule of thumb is not to add less than two percent of any ingredient in a vertical mixer nor less than one percent in a horizontal mixer. Follow manufacturers recommendations to determine the minimum amount of a premix to add to the mixer.

Mixing equipment should be flushed with several hundred pounds of cracked or ground grain following mixing of sulfa-containing ration. This flush material should be set aside for use in the mixing of a sulfa-medicated ration. Equipment should be cleaned thoroughly periodically using a vacuum cleaner or similar device to remove all the dust and buildup inside as well as outside the mixer.

Keep in mind the delivery system (wagons, augers, conveyors, storage bins and feeders) can be guilty of causing cross-contamination. As little as a quarter-teaspoon of sulfa per ton of feed is enough to create unsafe cross-contamination.

Careful planning of slaughterings can also help prevent problems due to sulfa residues. Do not market any hogs which have not met the withdrawal requirements for the sulfa drug used. Avoid unplanned marketings of any hogs such as sows or crippled hogs which may violate regulations. Delay marketing if in doubt. Naturally, label directions should be closely followed with any drug.

Drinking water provided in the withdrawal stage should be free of sulfa. If sulfa is used in finishing feeds, scrape and wash pens or move pigs to clean pens 48 to 72 hours after sulfa removal unless the floor is completely slatted with no manure buildup. Hogs continue to excrete sulfa in their urine for two or three days after removal. For this reason, it is not wise to use lagoon water which may contain drugs to flush finishing floors where market hogs could possibly consume the water.

Sulfamethazine is currently the sulfanamide involved in the residue problem. This sulfa gained prominence as a feed additive primarily due to research showing its efficacy in the elimination of Bordetalla bronchiseptica (a principal cause of atrophic rhinitis) for the nasal cavity of swine. The ability of a combination of antibiotics and sulfamethazine to maintain gains in the presence of atrophic rhinitis has also contributed to the popularity of its use.

Sulfonamides (either sulfamethazine or sulfathiozole) are used in swine feeds to reduce cervical abcesses, treat bacterial swine enteritis and vibrionic dysentery, maintain weight in the presence of atrophic rhinitis and control swine pneumonia caused by bacterial pathogens.

Since very low levels of sulfamethazine in finishing feed may cause residue problems, producers may want to explore alternatives to the use of the drug on their farms. If the diseases for which it is approved are not present on the farm, the necessity of the drug might be questioned.

Sulfathiazole or one of several atrophic rhinitis bacterins offer alternatives to sulfamethazine if you're trying to conquer AR on your farm. Likewise, other drugs may be equally or more effective in the treatment and/or prevention of salmonellosis and vibrionic dysentery as well as the reduction of cervical abscesses. Finally, other growth promotants may be as effective in pigs up to 75 pounds.

If you're still intent on using sulfamethazine, maybe you should consider changing forms to either granular or liquid. As mentioned above, the granular form is less likely to contaminate mixing equipment. The liquid, on the other hand, bypasses the mixing equipment entirely. Dr. R. L. Morter of Purdue University recommends dosing individual sow's feed in the farrowing house with an automatic syringe.

Improper use of sulfonamides is a threat, not only to the entire swine industry, but also to the person who makes the decision for use. The individual producer may lose profit on a daily basis through increased cost of the sulfa-containing feed as well as the loss he may face if a residue is discovered in the hogs.

When a violative level is found, the producer must send five hogs to slaughter for "pre-market" testing. This test period usually requires two weeks. If the test hogs are not in violation, the producer may resume marketing. Otherwise, he will need to continue "pre-testing" until the test hogs are below the maximum residue level of 0.1 ppm. ■

The sulfa issue

LeRoy G. Biehl, D.V.M., University of Illinois College of Veterinary Medicine

In spite of increased sulfa residue knowledge and precautions, the swine tissue residue rate remains high and is a cause of concern to Food and Drug Administration (FDA) and United States Department of Agriculture (USDA) officials. USDA meat inspectors initiated the monitoring of swine tissues for sulfa residues in 1973, and the violative rate has consistently ranged between 9.5-15%. During the first ten months of 1978, the USDA analyzed 5172 samples of swine tissue for sulfonamides. A violative residue was found in 483 (9.3%) of the samples — the lowest level since monitoring began. Research and on-the-farm investigations have revealed that determining the cause of a residue can be a difficult and complex problem.

Under the Food, Drug and Cosmetic Act — administered by the FDA — it is illegal to send live animals to market if they contain drug residues above established tolerances. Likewise under the Federal Meat Inspection Act — administered by the USDA — meat cannot be sold for human consumption if it contains residues above the tolerances set by the FDA. The current established tolerance for sulfas in swine tissue is 0.1 part per million (ppm). This tolerance level is based on limited 90-day toxicity studies designed to provide a 2,000-fold margin of safety for humans. During the past year, the FDA decided not to raise the tolerance level because of insufficient data to justify lowering the safety margin.

The problem is not new because swine tissues have probably contained sulfa residues since the early 1950's when sulfonamides began to be added extensively to swine rations.

The causes of violative sulfa residues in swine can be manyfold but essentially narrow down to two reasons: either inadequate withdrawal time or consumption of low level sulfa up to the time of slaughter. Field investigations of producers who have marketed hogs with violative tissue residues indicate 92% of the producers did follow proper withdrawal procedures. Therefore, most of the violations are the result of accidental low-level contamination of rations and water during the withdrawal period. Another source is the ingestion of sulfa contaminated feces and urine.

Research at the University of Illinois College of Veterinary Medicine indicates that as little as 2 gm. of sulfamethazine (approximately ¼ teaspoon) in a ton of complete mixed feed is enough to cause a tissue violation. This means forty pounds of medicated feed will contaminate a ton of clean feed. Between 70-120 pounds of residual feed may be left in the bottom of an auger-wagon, mixer-grinder, bulk bin or delivery truck. Carryover of sulfa can occur in the mixing equipment, delivery equipment or the farm or commercial mill. Other sources of sulfa residues may be a mix-up by the producer or delivery truck in unloading medicated feed. And drug carryover in water lines from water medications has been reported up to 2½ months after use.

Manure and urine from pigs on sulfa-medicated feeds serve as a sulfa source of sufficient magnitude to cause a residue. Recent studies by Illinois veterinary researchers have shown that sulfa-free pigs placed into pens containing manure from pigs fed sulfonamides had violative tissue residues within 48 hours.

The USDA in cooperation with the swine industry and FDA has launched a multi-phase campaign to eliminate the violative residues so that sulfonamides can continue to be used. During phase one of this program, epidemiologic information was gathered. Animal and Plant Health Inspection Service (APHIS) diagnosticians visited 100 producers — 75 producers whose hogs had previous violative residues and 25 producers who routinely fed sulfa but had never experienced sulfa violations. Feed, soil, manure and lagoon water samples were collected and sent to Dr. Richard Bevill's laboratory at the University of Illinois College of Veterinary Medicine for analysis. All of the analyses have not been completed, but 93 samples of withdrawal ration have been analyzed with the following results:

44.0% — contained no sulfa
36.5% — contained 0-1.0 ppm sulfa
7.5% — contained 1.0-2.0 ppm sulfa
2.2% — contained 2.0-3.0 ppm sulfa
1.1% — contained 4.0-5.0 ppm sulfa
6.5% — contained > 5.0 ppm sulfa

When the finishing ration contained sulfa, the individual ingredients were analyzed if possible. Soybean meal was analyzed only when the complete finished ration was contaminated with sulfa. Twelve such soybean meal samples were analyzed with the following results:

41.7% — contained no sulfa
41.7% — contained 0-5 ppm sulfa
16.6% — contained > 5 ppm sulfa

Two samples of vitamin premix from sulfa-contaminated rations contained 0 and 10.9 ppm respectively. Fourteen samples of supplement from contaminated finishing rations contained sulfa as follows:

21.4% — contained no sulfa
42.9% — contained 0-1 ppm sulfa
28.6% — contained 1-2 ppm sulfa
7.1% — contained 3-4 ppm sulfa

Frequently in our investigations we have found several sources of sulfa contamination which by themselves are low but added together are above the 1-2 ppm concentration. For example, one producer had the following contamination. His penicillin-streptomycin additive contained 15 ppm sulfamethazine and his vitamin-mineral premix 2 ppm, leaving him with a withdrawal finishing ration containing

LeRoy G. Biehl, a native of West Salem, Illinois, received the B.S. degree from the University of Illinois in 1956 and the DVM degree in 1958. From 1958 to 1963 he was a general veterinary practitioner in Olney, Illinois. In 1963, Dr. Biehl built the Albion Veterinary Clinic and practiced in Albion, Illinois until joining the University of Illinois clinic staff in 1972. He received his M.S. degree in veterinary medicine from the University of Illinois and became assistant professor in veterinary clinical medicine and veterinary extension in 1975.

Dr. Biehl is a member of the Eastern Illinois Veterinary Medical Association, the Illinois Veterinary Medical Association, American Veterinary Medical Association, the American Association of Swine Practitioners and the Illinois Academy of Veterinary Medicine.

more than 1 ppm.

During phase two of the USDA campaign to eliminate sulfa residues, an investigative survey by extension or APHIS personnel is made on a farm in violation at the producer's request. Samples are taken at different points in the feed delivery systems to determine the entry and source of sulfa contamination. FDA officials have agreed not to prosecute any producer who cooperates with the survey in an attempt to find the source of sulfa. The FDA has given the producers and USDA approximately 14 months to substantially decrease the rate of sulfa violations. If violations are not reduced, it is likely sulfonamides will be removed as an approved feed additive and perhaps as a medication for swine. It is decreasing, but we still have a long way to go.

Although preventing violative tissue residues should be easy, i.e., feeding a sulfa-free diet for 15 days prior to slaughter; it has not been that simple. Some producers who have taken stringent precautions or were not even feeding sulfas have had violative residues. As indicated in the Phase 1 investigations, the ration or components of the ration are frequently contaminated with sulfa. The producer may be purchasing a feed ingredient inadvertently that has been contaminated further up the line. For this reason we are recommending sampling of finishing rations as well as ingredients. If the finishing ration contains sulfa, the rest of the ingredients are analyzed.

To minimize the opportunity for sulfa residues, the following practices should be considered:

1. Thoroughly clean feed system and feeders when switching to non-medicated finishing feed, then wash manure and urine off of floors and pens for at least two days.
2. Install separate mixing, storage and feeding systems for non-sulfa finishing feeds including separate building for finishing.
3. Talk to your feed supplier about your concerns. Sample all deliveries of finishing feed and analyze them for sulfa carryover.
4. Consider using sulfathiazole instead of sulfamethazine. Sulfathiazole is eliminated from the blood stream faster than sulfamethazine and has a shorter withdrawal time (7 days as opposed to 15 days with sulfamethazine). Therefore, the opportunities for tissue residue probably are not as great with sulfathiazole.

When tissues have been found to contain a violative level, the producer is contacted by the USDA's Food Safety and Quality Service (FSQS). A USDA representative offers to visit the farm and help the producer determine the cause of residue. The producer can sell future hogs subject to slaughter testing or send five hogs for a pre-market test. The five hogs are slaughtered and tissue samples analyzed. Packers will discount the price for these five hogs because they must be frozen until the results are known and cannot be sold for fresh pork. If the tissues are negative, the producer is cleared and may resume marketing hogs without restriction.

To prevent the price loss for the five pre-market test hogs, the producer can test a random five hogs and the withdrawal feed before presentation for slaughter. If both are negative, the hogs should pass the pre-market slaughter test. Although producers still suffer a price discount on the five hogs, the procedure prevents the total loss of income from these hogs. We have used this procedure with success in Illinois.

Every effort should be taken by the producer and commercial feed supplier to prevent sulfa residues. If the violation rate is not reduced substantially, we may lose an important drug from our arsenal.

Chairman **Gibbons**. Now from the National Pork Producers Council.

STATEMENT OF C. DONALD VAN HOUWELING, DIRECTOR OF GOVERNMENT AFFAIRS, NATIONAL PORK PRODUCERS COUNCIL

Mr. **Van Houweling**. Thank you, Mr. Chairman. I appreciate the opportunity to appear before your subcommittee.

My name is C. D. Van Houweling. I am director of government affairs for the National Pork Producers Council.

I will summarize my statement very briefly and submit it for inclusion in the record.

The National Pork Producers Council has over 110,000 dues-paying, producer farm families as members. It is funded entirely by a voluntary checkoff program which collects 2 dimes per market hog at the marketplace. Producers who voluntarily participate number well over 200,000.

The sulfonamides, which include the three compounds addressed in this legislation, are very important to pork producers. These drugs, when used for treating diseases, are administered by addition to the animal's food or water or by direct administration. In addition, the sulfonamides are added to the feed supply in an effort to control diseases and thus improve the rate of growth or the efficiency of production.

Two sulfonamides which are used widely in feed are sulfathiazole and sulfamethazine. H.R. 4890 addresses sulfathiazole directly. Sulfaguanadine, also addressed in this legislation, is further processed into sulfamethazine. Sulfathiazole and sulfamethazine are used widely by pork producers in two- and three-way combinations with other antibiotics.

A high percentage of all hogs produced in the United States receive a sulfonamide drug either for therapeutic purposes or in the feed supply sometime during their growth. Consequently, these drugs are important to pork producers both for their use in curing diseases and maintaining a healthy animal and because of their wide use, they are important as a cost reduction item in the production of the animals.

We estimate that the duty on these sulfa drugs adds approximately 20-30 cents per ton to the cost of feed. It is estimated that each hog marketed will consume about 400 pounds of sulfa medicated feed. The cost per animal on the average would be approximately 4-6 cents for the sulfonamide used in the feed supply. Elimination of the duty on these drugs would hopefully be passed on to producers, although not necessarily by the direct amount saved by the elimination of the duty.

We recognize that the elimination of the duty may not have any marked bearing on the market price of the drugs, but we are still confident that the drugs would be cheaper to producers with the elimination of the duty after supply and demand has established a market price for these drugs. Although the few cents savings per animal might not appear significant, when you consider that U.S. production is between 80 and 90 million hogs per year and that a high percentage of these animals receive sulfonamides, the aggregate impact on the industry is significant.

It is also our understanding that presently there is no authority for negotiating a comparable concession for the elimination of duty on these three drugs. Consequently, after considering all factors, the National Pork Producers Council supports H.R. 4890 and urges that the subcommittee move forward with prompt and favorable consideration of this measure.

Thank you, Mr. Chairman. This concludes our statement and I will be glad to respond to any questions.

[The prepared statement follows:]

STATEMENT OF C. D. VAN HOUWELING, D.V.M., ON BEHALF OF THE NATIONAL PORK PRODUCERS COUNCIL

Mr. Chairman and Members of the Committee, I thank you for the opportunity to appear before your Subcommittee today on behalf of the National Pork Producers Council. My name is C. D. Van Houweling. I am Director of Government Affairs for the National Pork Producers Council.

The National Pork Producers Council has over 110,000 dues-paying, producer farm families as members. It is funded entirely by a voluntary checkoff program which collects two dimes per market hog at the market place. Producers who voluntarily participate number well over 200,000. The goal of our relatively young organization is to improve the profitability of pork production. We provide consumers with information concerning the nutrition and the economic value of pork. In addition to increasing demand for the product, our Council's job is to reduce the costs of production by improving efficiency.

The sulfonamides, which include the three compounds addressed in this legislation, are very important to pork producers. These drugs, when used for therapeutic purposes to treat diseases, are administered by addition to the animal's food or water or by direct administration. In addition, the sulfonamides are added to the feed supply in an effort to control diseases and thus improve the rate of growth or the efficiency of production.

Two sulfonamides which are used widely in feed are sulfathiazole and sulfamethazine. H.R. 4890 addresses sulfathiazole directly. Sulfaguanadine, also addressed in this legislation, is further processed into sulfamethazine. Sulfathiazole and sulfamethazine are used by pork producers in two and three-way combinations with antibiotics in the feed for their animals. A high percentage of all hogs produced in the United States receive a sulfonamide drug either for therapeutic purposes or in the feed supply sometime during their growth. Consequently, these drugs are important to pork producers both for their use in curing diseases and maintaining a healthy animal and because of their wide use, they are important as a cost reduction item in the production of the animals.

It has been estimated that the duty on these sulfa drugs adds approximately 20–30 cents per ton to the cost of feed. It is estimated that each hog marketed will consume about 400 pounds of sulfa medicated feed. The added cost per animal on the average would be approximately 4–6 cents for the sulfonamide used in the feed supply. Elimination of the duty on these drugs would hopefully be passed on to producers, although not necessarily by the direct amount saved by the elimination of the duty. Actually, the amount saved by the elimination of the duty could be greater because of the add on that would have been expected to take place during the various stages of production and distribution. In addition, we recognize that the elimination of the duty may not have any market bearing on the market price of the drugs, but we are still confident that the drugs would be cheaper to producers with the elimination of the duty after supply and demand has established a market price for the drugs. Although the few cents savings per animal might not appear significant, when you consider that U.S. production is between 80 and 90 million hogs per year and that a high percentage of these animals receive sulfonamides, the aggregate impact on the industry is significant.

Further, it is our understanding that presently there is no authority for negotiating a comparable concession for the elimination of duty on the three drugs addressed in H.R. 4890, even if Congress extends the authority of Section 124 of the Trade Act of 1974. While the Section does authorize the President to negotiate U.S. duty rates, the size of such reductions is very limited and the elimination of duties is not allowed. Consequently, after considering all factors, the National Pork Producers Council supports H.R. 4890 and urges that the Subcommittee move forward with prompt and favorable consideration of this measure.

Thank you Mr. Chairman. This concludes our statement and I will be glad to respond to any questions.

Chairman GIBBONS. Thank you. Where do we import this drug from?

Mr. GALLOWAY. If I may answer that, sulfamethazine is produced in Poland, Yugoslavia, China and in lesser quantities in some of the other Eastern bloc countries of Europe.

Sulfathiazole primarily is available from two sources, being China and Poland.

Chairman GIBBONS. China and Poland?

Mr. GALLOWAY. Yes.

Chairman GIBBONS. How about the sulfapyridine?

Mr. GALLOWAY. Sulfapyridine right now is produced by only one manufacturer to my knowledge. That manufacturer is in Italy. However, I do know the Polish people or Polish group is at this time strongly considering getting into the manufacture of sulfapyridine.

Chairman GIBBONS. Why do we not manufacture these sulfa drugs here? Just out of curiousity?

Mr. GALLOWAY. The U.S. industry has never been able to be competitive. As an example, it was referenced a few minutes ago that at one time Diamond Shamrock purchased their total requirements of sulfathiazole from a U.S. manufacturer. I do not believe they will object to my referencing that manufacturer. That manufacturer was Merck Co. At the time Merck discontinued manufacturing sulfathiazole, we had an American selling price—and at that time that was the system of customs evaluation—of $5.70 or 80 cents a pound.

At the same time, I know that I was buying sulfathiazole from the Poles for $3.05 per kilo, CIF New York.

Mr. COSTAKES. In other words, you got it—you were getting 2 pounds for half of what he was paying for 1 pound?

Mr. GALLOWAY. Yes.

Chairman GIBBONS. You had a pretty good advantage over him, did you not?

Mr. GALLOWAY. They have a tremendous——

Chairman GIBBONS. Why? I do not understand it. I do not know that much about the manufacture of sulfa drugs. Why are these people so good at it?

Mr. GALLOWAY. There is no market I know of in this country that is controlled by the old law of supply and demand any more rigidly than the sulfa drug market. The Eastern bloc countries, when the supply is greater than the demand, they will not cut back production. They will start cutting back prices until they find a level at which additional material will move.

An American manufacturer cannot compete with that philosophy.

Chairman GIBBONS. Any other questions?

Thank you very much.

Our next witness then on this subject is from the American Cyanamid Co.

STATEMENT OF ROBERT MOONEY, PRODUCT GROUP MANAGER, AGRICULTURAL DIVISION, AMERICAN CYANAMID CO., ACCOMPANIED BY ST. CLAIR J. TWEEDIE, DIRECTOR, GOVERNMENT RELATIONS AND LOUIS SCHNEIDER, REPRESENTATIVE OF PHARMACIA, INC.

Mr. Mooney. Mr. Chairman, members of the subcommittee, good afternoon. I am Robert Mooney. I am product group manager for American Cyanamid Co. Agricultural Division headquartered in Wayne, N.J.

On my left is Mr. St. Clair J. Tweedie, Cyanamid's director of government relations. On my right is Mr. Louis Schneider, representing Pharmacia, Inc., in New Jersey.

We want to thank you for giving us the opportunity to appear before you today to present our views and discuss our reservations as to certain aspects of the proposed tariff suspensions contained in H.R. 4890.

Because of the time, my remarks will be brief. I request the full statement will be placed in the record.

H.R. 4890 calls for unilateral elimination of tariffs on three sulfa drugs, sulfapyridine, sulfaguanadine, and sulfathiazole. The bill is based on the premise there is no U.S. production of those drugs.

American Cyanamid has serious concern with the potential elimination of the tariffs on two of these drugs, sulfaguanadine and sulfathiazole.

Sulfaguanadine, contrary to the premise of the bill, there is U.S. production of sulfaguanadine. Cyanamid produces it in Bound Brook, N.J. It is not sold directly to the livestock producer but is a chemical intermediate used in the production of sulfamethazine, a more effective sulfa drug. If the tariff on sulfaguanadine is eliminated, Cyanamid as a result of competitive pressure would be forced to purchase this product abroad. This course of action would mean closing that part of the Bound Brook facility devoted to sulfamethazine production.

The greater demand for sulfa drugs produced abroad due to the closing of our facility would raise the price of these drugs to importing companies and livestock producers alike, the exact opposite of what the subcommittee would like to achieve.

The second drug, sulfathiazole. It is true that there is no U.S. production of sulfathiazole. However, Cyanamid's sulfamethazine is directly competitive with sulfathiazole. They are interchangeable products in animal disease therapy. Eliminating the duty on sulfathiazole puts U.S.-produced sulfamethazine at a competitive disadvantage with the imported product. The effect on Cyanamid employees will be the loss of about 100 jobs which are associated with the production of sulfamethazine.

One of the arguments advanced by supporters of these tariff suspensions is that they will lower the price of feed to farm customers. Mr. Chairman, the savings will be short term and relatively small. For example, if the total value of the eliminated duty on sulfathiazole were passed to the farmer, it would amount to only 31 cents per ton of medicated feed purchased. This represents 0.2 percent of the cost of that feed.

If we refer to Dr. Van Houweling's estimate of a savings of 4 to 6 cents per hog, this represents 0.04 percent of the cost of producing that hog.

If we are forced to close our production facility, the longer term effect will be increased costs and higher prices. The price of these drugs to the farmer could very well double.

In the final analysis, the prices charged for the drug and the feed sold to the farmer depend upon the market situation for those two products without much regard to the cost of the duty.

In summary, H.R. 4890 proposes the elimination of tariffs for sulfapyridine, sulfaguanadine and sulfathiazole. We object to the bill for three specific reasons:

One, the bill is based on a faulty premise—that premise being that there are no U.S.-produced competitive products. This premise is obviously in error.

Two, the purpose of the bill is to reduce the cost of sulfa drugs to the farmer. In fact, the exact opposite will occur and this has been demonstrated in the past.

Three, this bill, and all bills, should be passed in response to a need. Since imported sulfa drug products are already selling at prices below U.S.-produced sulfa drugs the need for tariff relief clearly does not exist.

Mr. Chairman, this concludes my statement. I am prepared to answer questions for you or members of the subcommittee at your pleasure.

[The prepared statement follows:]

STATEMENT OF ROBERT MOONEY, PRODUCT GROUP MANAGER, AMERICAN CYANAMID CO.

Mr. Chairman and Members of the Subcommittee, good morning. My name is Robert Mooney. I am Product Group Manager for American Cyanamid Company's Agricultural Division, Wayne, New Jersey. Accompanying me here today is Mr. St. Clair J. Tweedie, Cyanamid's Director of Government Relations. In my position I am very much involved in my company's marketing activities as they relate to the sale of a range of animal health products and feed additives.

We want to thank you for giving us the opportunity to appear before you today to present our views and discuss our reservations as to certain aspects of the proposed tariff suspensions contained in H.R. 4890.

Before doing so, let me briefly describe Cyanamid and its operations. Cyanamid is a diversified company that manufactures and markets 2,500 agricultural, medical, specialty chemicals, consumer and Formica-brand products. In 1981 our sales were $3.6 billion. We employ some 42,000 people at more than 100 plants, research laboratories and offices in the United States and abroad.

Mr. Chairman, as a multinational company, Cyanamid is strongly committed to the principles and practices of free and fair trade. We are fully supportive of the objectives of our government, already well along the way to reality of reducing and eliminating tariffs as barriers to trade. Our remarks today, Mr. Chairman, should not be construed as in any way opposed to this course of action.

H.R. 4890 calls for unilateral elimination of three sulfa tariffs. The bill is based on the premise that there is no U.S. production of those durgs. Cyanamid has a problem with the potential elimination of two of these drugs, sulfaguanadine and sulfathiazole:

(1) *Sulfaguanadine.*—Contrary to the premise of the bill, there *is* U.S. production of sulfaguanadine. Cyanamid produces it in Bound Brook, New Jersey. It is not sold directly to the livestock producer but is a chemical intermediate used in the production of sulfamethazine, a more effective sulfa drug. If the tariff on sulfaguanadine is eliminated, Cyanamid as a result of competitive pressure would be forced to purchase this product abroad. This course of action would mean closing that part of the Bound Brook facility devoted to sulfamethazine production. Closing this operation would represent a $5 million annual continuing cost which would have to be added

to the cost of other products manufactured there. The greater demand for sulfaguanadine produced abroad due to the closing of our facility would, in turn, likely raise the price of the product to importing drug companies and livestock producers if tariffs are eliminated.

(2) *Sulfathiazole.*—It is true that there isn't any U.S. production of sulfathiazole. However, Cyanamid's sulfamethazine is directly competitive with sulfathiazole. They are interchangeable products in animal disease therapy and prophylaxis. Eliminating the duty on sulfathiazole puts U.S. produced sulfamethazine at a competive disadvantage with the imported product. The effect on Cyanamid employees will be the loss of about 100 jobs which are associated with the production of sulfamethazine. In addition, the continual erosion of the Bound Brook facility, which now employs close to 1,200 people, jeopardizes the employment of members of the surrounding community.

Mr. Chairman, tariffs on these products are already being significantly reduced as a result of the last round of multilateral trade negotiations. By 1987 U.S. tariffs on these sulfa drugs will be reduced to approximately 50 percent of their current level. These phased reductions allow us adequate time to adjust and improve our domestic manufacturing processes so that we can remain a viable and competitive U.S. *producer* of sulfa drugs.

Mr. Chairman, American Cyanamid Company is the only remaining U.S. producer of Sulfaguanadine and sulfamethazine. As such we have a substantial investment in the production plant and technology. We also have many costs which our foreign competitors do not have. Our costs to produce these sulfa drugs are slightly less than twice the purchase price of these drugs from the several non-market Eastern European countries currently exporting to the U.S. Our higher cost structure is not the result of economic inefficiency on our part. Rather it is the result of a number of elements, many of which are required by law:

The cost of supporting research for U.S. registration of the products with FDA.

The cost of environmental capital investments in our Bound Brook, New Jersey facilities.

The cost of capital and personnel expenditures to meet the new FDA Good Manufacturing Regulations.

The cost of past tariff actions that contributed to a reduction of the output of products from that facility.

Higher U.S. salaries, wages and benefits.

One of the arguments advanced by supporters of these tariff suspensions is that they will lower the prices of feed to farm customers. Mr. Chairman, the fact is that any savings will be short-term and relatively small. If we are forced to close our production facility the longer term effect will be increased costs and higher prices. For example, if the total value of the eliminated duty on sulfathiazole were passed directly to the farmer, it would only amount to $0.31 per ton of medicated feed purchased. This represents 0.2 percent of the cost of that feed.

It is also argued that the impact of a relatively small change in the price of sulfa drugs resulting from duty suspension can represent significant savings to the farmer because of the succession of markups and downs by various components of the distribution chain. That is also a rather hollow argument given the relatively limited number of intermediate components between the drug manufacturer and the farmer. Let me explain: We sell two types of products containing sulfa drugs—health products (tablets, solutions and injectibles) and feed premixes. The health products are sold to distributors who in turn, sell to dealers who then sell to farmers. Feed products are sold to distrubutors, blenders and large feed companies. The distributor may market the feed product the same way he sells the health product. In any case, the opportunity for amplification of the duty suspension through the distribution chain is relatively limited. So, too, is any price reduction to the final consumer. In the final analysis, the prices charged for the drug and the feed sold to the farmer depend on the market situation for either product without much regard to the cost of the duty.

In summary, H.R. 4890 proposes elimination of tariffs for sulfapyridine, sulfaguanadine and sulfathiazole. Sulfaguanadine is produced in the U.S. as an intermediate to sulfamethazine. Sulfamethazine is directly competitive with sulfathiazole. The elimination of duties for sulfaguanadine and must specifically sulfathiazole will make it economically impossible for Cyanamid to continue in the U.S. production of sulfa products. Further, since the imported products are already the lowest priced products in the market there is no obvious need for lower tariffs. As we have stated before, it is doubtful farmers will see benefits from these tariff eliminations. We believe the substantial staged reduction of duties now in progress will be sufficient measure of trade liberalization in this area.

Mr. Chairman, this concludes my prepared statement.

Chairman **Gibbons**. I tried to follow your statement. Are you opposed to all three of these drugs or just two of the three?

Mr. **Mooney**. Cyanamid has an interest only in two drugs that are mentioned in the bill, that is sulfaguanadine and sulfathiazole. I believe Mr. Schneider will comment on sulfapyridine.

Chairman **Gibbons**. You say no repeal of sulfathiazole and sulfaguanadine; is that right?

Mr. **Mooney**. Could you say that again, sir.

Chairman **Gibbons**. I am sorry. You are opposed to this bill on sulfathiazole and sulfaguanadine; is that correct?

Mr. **Mooney**. That is correct.

Chairman **Gibbons**. The other one is not a problem?

Mr. **Mooney**. That is correct. That finds its way mainly into human use pharmaceuticals.

Chairman **Gibbons**. Any questions?

I am not going to ask you how your phosphate industry is.

Thank you for coming.

STATEMENT OF LOUIS SCHNEIDER, COUNSEL, FREEMAN, WASSERMAN & SCHNEIDER, REPRESENTING PHARMACIA, INC., PISCATAWAY, N.J.

Mr. **Schneider**. Mr. Chairman, members of the committee. I thank you for the opportunity to appear here today. My name is Louis Schneider of the firm of Freeman, Wasserman & Schneider. We represent Pharmacia, Inc., the American subsidiary of A. B. Fortia of Sweden.

I appear here before you in opposition in H.R. 4890 and in particular, in opposition to the suspension of duty proposed for sulfapyridine. Our client has a strong commitment to its U.S. operations. It has made significant investments in the U.S. and it employs over 350 Americans in its manufacturing, selling, and administration operations in the United States.

As indicated in the Salsbury Lab statement, the sulfapyridine is used to make sulfasalazine. Sulfasalazine is a drug developed by our client which has become the drug of choice for the treatment of ulcerative colitis. Our client has traditionally been an importer of sulfasalazine from Sweden. Incidentally, sulfasalazine is today dutiable under the same provisions in the Tariff Act as sulfapyridine, so they both carry exceptionally high rates of duty.

These high rates of duty arise out of the desire of Congress to encourage the development of the American chemical industry and to assist it in combating imports. It is as a consequence of this protection which Congress has specifically mandated that our client has recently made a substantial investment in the Virgin Islands, on St. Croix, to there manufacture its products.

This has required the building of an appropriate facility, a large investment in equipment, and a major training and educational program for local labor. The plant has just now received FDA approval and is expected to go into production within 3 months. All of this will be seriously undermined if sulfapyridine were to be made duty free.

We note that the Department of Commerce has not opposed the passage of this bill and we believe the Department of Commerce simply had no way of knowing about our client's investment in the Virgin Islands, the building of the plant there, or its training program. We urge this committee not to pass this bill.

Unfortunately, our client did not become aware of H.R. 4890 until yesterday. Therefore, we have not submitted a prehearing memorandum. We will submit a memorandum setting forth the details of our client's position within the time this committee has designated for the submission of written views. We further understand from telephone conversations today that the Virgin Islands authorities will also submit statements to this committee in opposition to this bill.

Thank you.

[The prepared statement follows:]

STATEMENT OF PHARMACIA, INC., PISCATAWAY, N.J.

I. INTRODUCTION

This statement is submitted on behalf of Pharmacia, Inc. of Piscataway, New Jersey in opposition to H.R. 4890 which proposes to eliminate or suspend the assessment of duties on sulfapyradine, one of the drugs currently provided for in Item 411.28 of the Tariff Schedules of the United States at 22.5 percent ad valorem.

Pharmacia, Inc. is the United States subsidiary of A.B. Fortia, a Swedish company. Pharmacia markets a range of drugs, scientific equipment, fine chemicals and other chemicals from its facilities in Piscataway, New Jersey. Certain of its products are manufactured in its American facilities, while others are imported. Pharmacia currently employs over 350 Americans in its United States facilities. Pharmacia has traditionally been the sole United States importer of bulk salicylazosulfapyradine, also known as sulfasalazine and marketed in dosage form by Pharmacia under the trade name "Azulfadine". Pharmacia obtained its sulfasalazine from Pharmacia A.B., located in Upsala, Sweden. Pharmacia A.B. developed and patented sulfasalazine in the 1940's and has been exporting the drug to the United States since 1949.

Due to a significant duty increase on sulfasalazine which inadvertently resulted from the conversion to ad valorem equivalents of duties assessed under the former American Selling Price ("ASP") method of customs appraisement, Pharmacia has made a major investment on St. Croix, Virgin Islands for the production of its Azulfadine products.

Sulfapyridine is the intermediate used to make sulfasalazine. Bulk sulfasalazine is made by Salisbury Laboratories of Charles City, Iowa from imported sulfapyridine. Salisbury then supplies the sulfasalazine to two pharmaceutical producers who manufacture tablets for sale under brand or generic names.

The suspension or elimination of the duty on sulfapyridine will seriously jeopardize Pharmacia's investment in the Virgin Islands. This action is contrary to intent of Congress in enacting existing legislation and the policy of the present Administration to continue to reinforce United States support for the economic development of the Virgin Islands.

II. REDUCING THE DUTIES ON SULFAPYRIDINE WILL FRUSTRATE THE INTENT OF CONGRESS AND THIS ADMINISTRATION

A. Congress Intended to Maintain the Level of Protection Afforded By Duties Collected Under the American Selling Price.

Sulfapyridine (as well as sulfasalazine) is currently classified in the Tariff Schedules of the United States under Item 411.28 which carries a column 1 rate (or "most favored nation") rate of duty of 22.5 percent ad valorem. This rate of duty has been reduced from 26.8 percent since July 1, 1980, when it was enacted pursuant to Section 223(d) of the Trade Agreements Act of 1979 (19 U.S.C. 1202, as amended) which implemented the rates of duty converted from the American Selling Price. This rate of duty was the rate which yielded customs duties "substantially equivalent" to the amount of duties collected under the American Selling Price basis of customs valuation, which section 223(d) eliminated pursuant to the United States agreement at the Tokyo Round of multilateral trade negotiations.

The American Selling Price was the price that an American producer "would have received or was willing to receive" from a United States customer.[1] The American Selling Price method of valuation was adopted by the United States to protect the American chemical industry from low priced imports. Thus the American Selling Price method of valuation resulted in extremely high dutiable values, and thus exceptionally high duties on "low priced" imports. A contrary effect resulted when the price of the imported product approximated or exceeded the price of the domestic product, thereby helping to create a competitive balance in the marketplace.

The United States' agreement to eliminate the American Selling Price basis of valuation was conditioned upon the substitution of rates of duties which would produce revenues "substantially equivalent" to the amount of duties collected under the American Selling Price method of valuation "during a recent representative year." The new rates of duty were calculated by the United States International Trade Commission, which used the year 1976 as the "representative year".[2]

In enacting section 223(d) of the Trade Agreements Act of 1979, Congress made it clear that the new United States rates of duty applicable to benzenoid chemicals and chemical products were intended to protect American industry to the same extent as it was protected under the former American Selling Price method of valuation. Congress expressly stated:

"The * * * rates of duty * * * for merchandise currently subject to the ASP method of valuation * * * are designed to ensure that U.S industries producing the merchandise in question will receive protection * * * substantially equivalent to the protection they receive from present rates of duty * * *" [3]

In the case of sulfapyradine, the amount of duties assessed under the new rate was "substantially equivalent" to the amount of duties collected under the prior ASP method of valuation. Further, the rate of duty on sulfapyridine will be reduced in stages to 11.6 percent by January 1987, a 48 percent reduction from the present rate of duty.

For sulfasalazine, however, the amount of duties assessed was significantly increased under the converted rate compared with the amount collected under the former American Selling Price.[4] This duty increase prompted Pharmacia to make a substantial investment in Virgin Islands, on St. Croix, to manufacture sulfasalazine and thereby benefit from the duty-free treatment applicable to products imported from the Virgin Islands pursuant to General Headnote 3(a)(i) of the Tariff Schedules of the United States as well as from the various incentives granted by the United States for such investments.

B. Eliminating the Duty on Sulfapyradine Will Frustrate the Congressional Intent Underlying Headnote 3(a)(i).

Pharmacia has recently made a large investment in building and equipping a manufacturing facility for the production of Azulfazine on St. Croix in the Virgin Islands pursuant to the Industrial Development Law of the Virgin Islands.[5] The purposes of this program are:

"* * * the promotion of the economic and social development and the diversification of the economy of the Virgin Islands, the establishment and preservation of opportunities of gainful employment for residents of the Virgin Islands and the alleviation of the acute shortage of housing for residents of Virgin Islands, which purposes and objectives are declared to be in the public interest." [6]

General Headnote 3(a)(i) of the Tariff Schedules of the United States codifies the support of the policy of the Virgin Islands Industrial Development Program by exempting from United States customs duties importations of merchandise from the insular possessions of the United States which do not contain foreign materials of more than 50 percent of their total value.[7]

---

[1] Section 402(e) or Section 402a(g), Tariff Act of 1930, as amended by the Customs Simplification Act of 1956, 70 Stat. 943, 946, 19 U.S.C., Sections 1401a(e), 1402(g) (1975).

[2] Conversion of Specific and Compound Rates of Duties to Ad Valorem Rates, Report to the President on Investigation No. 332-99 under Section 332 of the Tariff Act of 1930 as amended, USITC Pub. 896 (July 1978).

[3] S. Rept. No. 96-249, "The Trade Agreements Act of 1979", 96th Cong., 1st Sess. 127 (1979).

[4] This duty increase resulted from the historical inclusion of sulfasalazine in a "basket" tariff provision with other sulfa drugs, the values of which where averaged together for purposes of negotiating tariff reductions from an "ad valorem equivalent" rate. By reason of this aggregation "basket" provision, the negotiating authorities could not identify separate values for individual products. The invoice value for sulfasalazine was significantly higher than the invoice values for the other four drugs. Thus the ratio between its invoice value and the applicable American Selling Price was greater than the ratio between the invoice value of the other drugs and their respective American Selling Prices.

[5] 29 V.I.C., Ch. 12 (at No. 3748) and Section 934 of the United States Internal Revenue Code.

[6] 29 V.I.C., Ch. 12, Section 701.

In enacting General Headnote 3(a)(i), Congress' express purpose paralleled that of the Virgin Islands Industrial Development Program:

" * * * it was calculated to, and in effect has, stimulated the development of light industry in the possessions. The development of light industry has helped the economy of the possessions, particularly the Virgin Islands, where numerous new businesses have been established to produce or assemble various articles for duty-free shipment to the United States.[8]

Moreover, in reinforcing this policy, President Reagan's message to Congress transmitting his Caribbean Basis Initiative expressly stated that:

" * * * the U.S. Virgin Islands have a longstanding special relationship with the United States. Their development must be enhanced by our policy toward the rest of the region. We have consulted closely with * * * the Virgin Islands about the Caribbean Basin Initiative and the legislation I am requesting today will reflect * * * Virgin Island interests in many important ways.[9]

Paralleling the goals of the Virgin Islands Industrial Program under which Pharmacia made its investment, the President stated:

" * * * With the governments and private sectors of interested countries, we will develop private sector strategies for each country. The strategies will coordinate and focus development efforts of local business, U.S. firms, private voluntary organizations, the U.S. government, and Puerto Rico and the Virgin Islands. The strategies will seek new investment and employment opportunities and will also seek to remove impediments to growth including lack of marketing skills, trained manpower, poor regional transport, and inadequate infrastructure."[10]

Pharmacia's plant is expected to go into production within three months. Pharmacia has instituted a major training and educational program for the local labor which it will employ in its Virgin Island facility. Azulfadine is the first product which Pharmacia plans to export to the United States from this facility; Pharmacia expects to expand its facility to include other products in the future. The specialized training in a high technology field which local residents will receive from Pharmacia's program will be transferrable to such future products as well. However, if the United States customs duty on sulfapyradine is eliminated, Pharmacia's investment will by seriously jeopardized, since it would remove the incentive for a sulfasalazine producer to invest in the Virgin Islands rather than import directly into the United States.

III. CONCLUSION

The removal of duties on sulfapyradine would frustrate the purpose of Congress to protect the American chemical industry, as originally reflected in the American Selling Price basis of customs appraisement and carried over into the converted rates of duty on these chemicals.

There is a strong Congressional, and now Administration policy, of fostering the economic development of the Virgin Islands.

The removal of the duty on sulfapyradine would frustrate both of these policies.

We strongly urge that the duty exemption for sulfapyradine embodied in H.R. 4890 not be enacted.

Chairman GIBBONS. Thank you very much. I am sure glad you brought this to our attention. We will certainly take it into consideration.

Are there any questions of the panel?

Thank you very much.

We will next hear from our colleague, Ms. Ferraro, about H.R. 5947.

---

[7] The Reagan administration supports proposed legislation which will permit products from the Virgin Islands whose foreign content do not exceed 70 percent to receive duty-free treatment. 128 Cong. Rec. S 2304 (H.Doc. No. 97-153) March 17, 1982.

[8] S. Rept. No. 1679, 89th Cong., 2nd Sess., reprinted in [1966] U.S. Code Cong. & Ad. News 4389, 4390.

[9] Supra note 6.

[10] Id.

STATEMENT OF HON. GERALDINE A. FERRARO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Ms. **FERRARO**. Thank you, Mr. Chairman.

Chairman **GIBBONS**. We are happy to have you here.

Ms. **FERRARO**. Well, you are working here. We are working on the floor. This is the time members are in two places at one time.

I appreciate the opportunity to appear before you to discuss H.R. 5947, a bill I introduced to provide equity for American businesses. Equity, as you are all too well aware, has been the subject of considerable debate on the House floor this week.

Regardless of how each of us views the merits of that debate, however, I am confident that the equity of the bill I am here to discuss will be apparent, without regard to economic philosophy, political party affiliation, or any species of insect pest, whether of the North or the South.

Mr. Chairman, H.R. 5947 rectifies a current inequity in the tariff schedules regarding the importing of perfume for distribution as samples. Let me assure you, however, that my interest stems not from my taste in perfume but from my commitment to supporting American business.

Under current tariff classifications, foreign concerns that import perfume samples already bottled pay no duty on their product. Regardless of the total amount of perfume they import, they pay no duty, so long as the perfume is in sampler bottles for distribution to department stores and other outlets on a not-for-resale basis.

At the same time, however, American firms which import perfume in bulk for bottling as samples not for retail sale must pay an ad valorem duty on the 6- or 9-percent rate on the perfume. Obviously, this raises the costs of doing business for the domestic firm, putting it at a competitive disadvantage vis-a-vis foreign companies.

My bill would remedy this imbalance by removing the duty on perfume imported for the purpose of being bottled in samplers, thus putting American and foreign firms on an equal footing.

The task of policing the imports to insure that the bulk shipments are not diverted to some use other than as samples should pose no serious problem. In fact, a system already exists, in the Bureau of Alcohol, Tobacco, and Firearms, that could be adapted to this purpose.

BATF requires shippers and receivers to seek permits for shipments of perfume in interstate commerce. In the permit, each party must certify the size of the shipment and how it will be used. BATF's interest stems from its responsibility to control the alcohol content in perfumes.

This basic approach could be used to control imported perfume. By requiring both importers and domestic bottlers to file similar permits and certifications with the Customs Service, a ready mechanism would exist for maintaining records on shipments received. Given the comparatively small size and infrequency of shipments for samplers, attempted violations could be detected.

I am informed, Mr. Chairman, that in any 6-month period, there might be an average shipment from a given perfume manufacturer of 250 gallons for use as samples. That 250 gallons, at 4,000 samples per gallon, produce 1 million samples for distribution across the country. It would be relatively simple for customs to keep track of shipments, and if they seem to be of inordinate size or frequency, an investigation of a firm's books could be undertaken.

I would like to comment, briefly, on the two alternative proposals that have been put forward by the administration, that is, either using bonded warehouses for producing the samples or moving the production plant to a free trade zone.

In either case, the problem is the same, and I am frankly amazed that the proposals could have come from an administration which is so obviously concerned with removing Government restrictions on business.

For an existing firm to establish operations in a bonded warehouse, which would be located at the port of entry so customs could review everything that went in or out, or to relocate in a free trade zone, would require a complete uprooting of the business.

There is a firm in my district that suffers from the competitive disadvantage H.R. 5947 would correct. Adoption of the administration proposals would give that firm the option of completely relocating its plant, which has been in its current location for 15 years. Such a move would involve costs ranging up to $250,000 and would likely result in one-half of the 50 employees leaving the firm.

I am convinced that there are several means of enforcement which could be adopted without great difficulties. I will be meeting with Customs Service officials to explore methods that will meet their concerns and still provide the equity sought under H.R. 5947. I look forward to working with the subcommittee to effect a remedy to this problem for American businesses.

I thank the chairman.

Chairman GIBBONS. You brought up an interesting problem. I do know we run into resistance from administration every time we run into enforcement problems. It seems to me that you suggested a reasonable solution, though. I do not know why it could not be worked out.

We have not heard in great detail from the administration. I would be inclined to want to listen to them a little more to see what they had. We have been cutting back so much on enforcement personnel of these tariff laws that we are really spread pretty thin. I guess that is what they are reflecting in that.

Perhaps there is some way around this problem. We will try to work it out.

Ms. FERRARO. Thank you very much. I am chair of the Subcommittee on Human Resources of the Post Office and Civil Service Committee. For numerous reasons other than this bill, one of the things I have been doing is staying in touch with the administration with reference to the RIF's in the Customs Service.

There is a real concern, but as long as BATF is already handling this type of thing, it seems to me it would take very little more to police this type of operation, especially since so few people would be affected by it.

It seems rather unfair that we have a situation here where a foreign competitor just can outclass and outprice our American businessmen and can—especially when the economy is going the way it is now. Increased burdens like this tariff can possibly put that individual out of business.

My constituent is not the only one who is suffering by this kind of inequity. I will have my subcommittee work with the customs people to come up with some sort of solution that might lead the administration to feel this is not an administrative nightmare.

Chairman **GIBBONS**. We will ask our customs expert to work along with you on that.

Ms. **FERRARO**. Thank you very much, Mr. Chairman. I appreciate the opportunity to testify.

Chairman **GIBBONS**. We will take up H.R. 5058 by Mr. Trible.

STATEMENT OF WILLIAM M. CAVISTON, SECRETARY AND GENERAL COUNSEL, BADISCHE CORP., ACCOMPANIED BY PHILIP B. STULL, JR., PRODUCT GROUP MANAGER FOR INTERMEDIATE CHEMICALS

Mr. **CAVISTON**. Thank you, Mr. Chairman.

I am William Caviston, secretary and general counsel of Badische Corp. I want to thank the subcommittee for this opportunity to appear in support of H.R. 5058.

H.R. 5058 is a bill to suspend until July 1, 1985, the duty on 1, 6-Hexanediol. In a moment I will say something more about this chemical with the rather exotic name. I will certainly keep my remarks very brief.

Let me add that I have with me Mr. Philip B. Stull, Jr., the product group manager for Intermediate Chemicals. Mr. Stull does not wish to make a statement but is here to answer any questions which I may not be able to handle.

First, let me tell the committee something about Badische Corp. Badische Corp. has its corporate headquarters in Williamsburg, Va. It has plants at Williamsburg, Va., Anderson, S.C., Allendale, S.C., Sylvania, Ga., Freeport, Tex., and Kearny, N.J. At its several plants, Badische employs more than 4,000 people.

Badische's business thrust is in two fields. One is fibers and yarns; the other is chemicals. Badische's chemical activity is centered at its plant at Freeport, Tex., where approximately 600 people are employed.

Because of the nature of its business, Badische is not a household word. This is because Badische does not produce finished products. In the fibers and yarns field, for example, we do not produce carpeting, or draperies, or apparel. Rather, we produce the fibers and yarns which go into those products.

This is also true in the chemicals field. In general we produce the intermediates used by other manufacturers.

Nevertheless, Badische is a substantial firm with a significant impact upon the economy of this country. Badische's sales in 1981 totaled $563 million. It is projected that for the year 1982 sales will reach well above $600 million.

Badische's principal chemicals production plant is located at Freeport, Tex. It produces, among other products, caprolactam and polycaprolactam. About one-half of this production is consumed internally by Badische to produce nylon at its plant in Anderson, S.C. The balance is sold to other nylon producers, primarily in the United States, although significant quantities are exported.

Badische also produces alcohols, acrylic acid, ammonium sulfate, and other products at Freeport.

In the production of caprolactam, which is one of the intermediate stages in the production of nylon, Badische produces an acid water stream which heretofore has been treated as a waste product posing, among other things, a disposal problem.

We are now getting to the reason why I am here.

One alternative to dispose of that waste stream is to burn it. This, however, involves the consumption of large amounts of energy.

Another alternative is to neutralize the acid and pump it into a subsurface disposal well.

By far the best solution is one which would convert the acid water into a commercially useful product. Badische proposes to do that. The acid water can be converted into a chemical intermediate, 1,6-Hexanediol, the chemical which is the subject of H.R. 5058. This is used in the production of such things as wheels for skateboards and roller skates, outer shells for ski boots, fabric coatings for synthetic leathers and high performance metal coatings.

Badische plans to build a plant at Freeport, Tex., to convert the waste acid water into hexanediol. The proposed plant, when completed, will be the largest such plant in the world. It will create approximately 50 new jobs for American workers.

At the present time, there is no domestic producer of hexanediol. Celanese Corp. permanently closed its plant at Bay City, Tex., in April 1981. All of the domestic demand for hexanediol must now be satisfied by imports.

In order to build a market for Badische's proposed plant—and this is Mr. Stull's present responsibility, to build that market for the plant we want to construct—the company desires to import hexanediol from its parent company in West Germany. The importation would continue only until the new plant is finished. Thereafter, Badische would use American labor to produce this important product, not only for the U.S. market, but also for export markets.

There is, however, an anomaly with regard to the importation of hexanediol. There is a duty of 13.5 percent—at the present about 10 cents per pound—imposed on this product.

Unquestionably, the imposition of the duty made economic sense at the time it was enacted. Badische respectfully suggests, however, that it is now anomalous to have a duty to protect domestic producers when there is not a single domestic producer to protect.

Badische, therefore, requests and urges that the duty on hexanediol be suspended until July 1, 1985. At that time, Badische's new plant will be in production. This temporary suspension, if granted, will promote the energy, ecological and balance of payments objectives of the United States. It will make it possible for Badische to enter the market now with imported material. The company can then build a customer base to support its proposed new plant when it goes into production.

The committee will note that the bill, as introduced, provides for the retroactive suspension of the duty to April 30, 1981. Badische has been advised, however, that the Department of Labor and the

Treasury Department have expressed concern about the retroactive feature of the proposed legislation. While it is possible to make a good case to justify retroactivity, Badische considers that the passage of the bill is more important.

Accordingly, if it will expedite passage, Badische would be in favor of seeing the bill amended to eliminate the retroactive feature.

The elimination of the retroactive feature, however, makes passage, and particularly timely passage, more urgent to Badische.

Until now, our imports have been small. We have so far imported 500,000 pounds. On this quantity, duty of approximately $50,000 has been paid.

Now, however, the inventory of domestic material produced by Celanese prior to shutdown has been consumed. We are, therefore, on the threshold of greatly expanded imports.

We project imports for 1982 of 3.4 million pounds; 5.8 million pounds for 1983; and 8.1 million pounds for 1984. Unless the duty is suspended, this will mean duty payments of about $1,700,000.

At this time, there is growing concern about productivity in the United States. I think it is clear that it is Government policy to encourage investment in and expansion of the Nation's industrial plant. By approving the proposed temporary duty suspension provided for by H.R. 5058 that policy will be fostered.

For these reasons, Badische urges approval of H.R. 5058 by the Ways and Means Committee to effect the temporary suspension of the duty on hexanediol.

Chairman GIBBONS. You have a very interesting story there, one in which I have a great deal of sympathy. I do not have any questions for you, because I think you were intelligent enough to answer all the questions that I may have about it.

I do have a suggestion: You might see one of your famous Senators over there and tell him we are going to send him over this bill. It will be tied up with a few other bills. We would appreciate him using his great influence to untangle this log jam that has developed over in the Senate over these tariff bills.

I am talking about Senator Bentsen. He is a very important man on the Finance Committee. We would sure like to have him help us with some of these problems.

Mr. CAVISTON. You raise an excellent point, Mr. Chairman. We have already been in touch with Senator Bentsen's office as well as Senator Tower and the two Senators from Virginia. I have every reason to believe we are going to get support from those offices. We are going to continue to urge the support from all four of those Senators.

Chairman GIBBONS. Senator Byrd of Virginia and Senator Bentsen play a very important role. I do not want to play down the role of the others. These all end up in that famous Finance Committee over there. They are members of that Finance Committee.

We have about the equivalent of 40 bills over there right now they have been doing something to, we are not sure what. Incubating them or something for about 1 year. We would appreciate them getting them moving, because yours is going to be part of that whole proposition.

Mr. CAVISTON. That is correct. Mr. Gibbons, your comments on the record may help us to get the support we need from those quarters.

Chairman GIBBONS. Here you are, about ready to build a new plant. You need to keep competitive in a world market. You are being penalized by an unfair tariff as far as that is concerned. You are just asking for a temporary suspension so you can get your plant built. There is no other American production.

You have a pretty good case. I rate yours highly.

Mr. CAVISTON. We think also—we share that view and appreciate your comments, Mr. Gibbons.

Thank you very much.

Chairman GIBBONS. Thank you very much.

Our next bill is H.R. 5170 by Mr. Frenzel, et al.

We apologize to you for keeping you here so long.

Mr. SHAPIRO. I really consider this room home, Mr. Chairman.

Chairman GIBBONS. Seems like that to me, too.

STATEMENT OF M. SIGMUND SHAPIRO, CHAIRMAN, CUSTOMS COMMITTEE, NATIONAL CUSTOMS BROKERS AND FORWARDERS ASSOCIATION OF AMERICA

Mr. SHAPIRO. Mr. Chairman, I appreciate the opportunity to testify here on a bill that is of very great concern to us. I am also—we are very indebted to Congressman Frenzel for introducing the bill on our behalf.

I will not read my statement. I will try to summarize what has happened. The Tariff Act of 1930 which is now 52 years old has two provisions of law which seem to be contradictory. One says that a consignee on a bill of lading is deemed to be the owner of merchandise and the other says a customs broker is the only party outside of the actual owner who can clear merchandise.

As a result of the couriers who are now in business to expedite the movement of mail and business documents, they have been by dint of exigencies forced to clear certain shipments. It came to our attention they were clearing them, and we felt they were not empowered to do so by the statute.

Customs, however, issued a ruling which blended the two sections of the law together and claimed the couriers were consignees in the tariff sense, ergo they were owners. This would have destroyed the customs brokerage industry.

We are, as you probably know, Mr. Chairman, licensed by the Treasury. We are the interface between Customs and the importing community, and the Customs Service itself has testified many times that they could not operate with the small staff they have if it were not for a professionally trained and licensed customs brokerage industry.

Chairman GIBBONS. I have heard that many times.

Mr. SHAPIRO. As a consequence, we put together a bill. With the help of the Customs Service itself, we introduced the bill. Customs then made some modifications in our language; and just last week, after many hours working with the Customs General Counsel's office, we came up with some alternative language.

My statement includes an amendment to the bill itself. We think it will work. We think, although Customs has not given it its blessing per se, that they can work with it. They, too, realize that there is an anomaly here that must be reconciled.

We also do not want to tie up the clearance of business documents, so we have suggested some amendments in the tariff schedules of the United States to broaden the definition of intangibles which will enable the couriers to do what they do best and still enable us to do what we do best.

I will be glad to answer any questions you might have.

[The prepared statement follows:]

STATEMENT OF M. SIGMUND SHAPIRO, ON BEHALF OF THE NATIONAL CUSTOMS BROKERS & FORWARDERS ASSOCIATION OF AMERICA, INC.

SUMMARY

The Customs service has ruled that a "nominal" consignee appearing on the bill of lading or otherwise possessing the right to make Customs entry, may make entry in its own name and on behalf of another; and such ruling is in conflict with 19 USC § 1641, providing that a party transacting Customs business on behalf of another must be a licensed Customs broker. H.R. 5170 would correct this situation and we support the purposes of this legislation. We have proposed certain amendments as a substitute to sections 2-4 of H.R. 5170 which would in principal part (a) amend § 483 of the Tariff Act by striking the language "all merchandise imported into the United States shall be held to be the property of the person to whom the same is consigned", and would amend § 484 of the Tariff Act to provide that only the actual owner or purchaser of the merchandise, or a licensed Customs broker, may file the documentation required to effect entry of the broker, may file the documentation required to effect entry of the goods. Our suggested amendments to H.R. 5170 would also conform §§ 484(h) and (i) of the Tariff Act, concerning certain alternative entry procedures, to the change to § 484.

The Association supports section 1 of H.R. 5170 regarding Customs treatment as "intangibles" of certain records, etc., pertaining to business, engineering or exploration operations conducted outside the United States.

STATEMENT

My name is M. Sigmund Shapiro and I am President of Samuel Shapiro & Company, Inc., a licensed customs broker with offices at the port of Baltimore and Washington, D.C. I am chairman of the Customs Committee of the National Customs Brokers & Forwarders Association of America, Inc. (NCBFAA). The NCBFAA is a national trade association consisting of over 400 licensed customs brokers and freight forwarders. The Association is divided into 24 regional and local affiliates at every major United States port of entry, representing in total over 950 licensed Customs brokers and freight forwarders. The membership of our Association handles most general cargo imports and exports coming into and leaving the United States.

We are here to testify in support of the objectives of H.R. 5170, which would correct a very serious problem created for the Customs brokerage industry by a ruling issued by the Customs Service effective February 27, 1981 (Customs Manual Supplement 3254), which allows the transaction of custom business on behalf of others by unlicensed parties contrary to the intent of 19 USC § 1641. This ruling dealt with the right of an international courier service, once it has qualified as the "nominal consignee" under 19 USC § 1483, to file informal or formal entries in its own name, and in its own right, even though it is perfectly clear that at the time of entry, the courier service is not dealing in its own merchandise when it presents such a Customs entry but rather, it is clearing merchandise owned by or consigned to another party, i.e., the true owner, ultimate consignee or actual purchaser. The Association challenged the ruling immediately, but in a ruling issued on February 9, 1981, and published as C.S.D. 81-169 in the Customs Bulletin for August 5, 1981, Vol. 15, No. 31 (copy attached), the Customs Service, while acknowledging the fact that the courier as a "nominal consignee" is permitted to make entry in its own name only through a legal fiction, nevertheless upheld the validity of the ruling. In so ruling, the Customs Service completely ignored § 111.3 of the Customs Regulations (19 CFR § 111.3) stating:

"An importer * * * transacting Customs business solely on his own account and *in no sense* on behalf of another is not required to be licensed * * *." [Emphasis supplied.]

Thus, Manual Supplement 3254 allows unlicensed parties to transact Customs business on behlaf of others. As the members of this Subcommittee are well aware, the profession of Customs brokerage is licensed under strict standards administered by the Customs service under 29 USC § 1641. Customs brokers must demonstrate and pass a written examination evidencing their knowledge of Customs law and regulations; they are subject to background investigation prior to issuance of a license; once having been licensed, they are thereafter subject to continuing inspection, audit and control by the Customs Service, and are professionally accountable to the public. Not only does the public thereby benefit by a cadre of licensed professionals available to properly attend to its Customs transactions, but also the Customs Service is the beneficiary of the licensing system in that Customs transactions are properly and professionally handled and if any problems arise, a licenses professional Customs broker can speedily attend to the matter. Indeed, Customs officials have several times testified before the Congress that the existence of this professional cadre serving the private sector, means in practical terms that Customs can accomplish its mission with far fewer personnel than would otherwise be the case.

Manual Supplement 3254 threatens to undo this carefully crafted system. Although it covered operations by courier services, the ruling can easily be extended to cover similar unlicensed Customs brokerage activities by banks, steamships, railroads, freight forwarders, etc. The documentary evidence required to establish the legal "right to make entry" is easily obtainable to unlicensed parties, who can then charge their principals, or the owners of the goods, for Customs clearance services. Hence, the ruling threatens the integrity of the Customs brokerage profession and the licensing system.

We do not wish to place any impediment whatsoever in the way of speedy clearance by courier services of time-sensitive material. Customs clearance of most of this material consisting of paperwork, data recorded on various media, cancelled checks, etc., does not require the expertise of a Customs broker. For that reason we support § 1 of H.R. 5170, which would add to the class of "intangibles" the categories of merchandise presently classifiable under TSUS Item 870.10, pertaining to records, diagrams, and other business documents relative to business operations outside the U.S., that is, of a "communicative" rather than a commercial nature and which would include most categories of time-sensitive correspondence. "Intangibles" are, of course, subject to no entry requirements whatsoever and it is believed that the treatment of Item 870.10 data as such will greatly facilitate their clearance.

Sections 2-4 of H.R. 5170 as introduced would have corrected the situation created by issuance of Manual Supplement 3254 by amending §§ 483, 484(h) and 641(a) of the Tariff act of 1930 as amended [1] to prohibit the transaction of Customs business on behalf of another by a nominal consignee, unless the nominal consignee was licensed as a Customs broker. At the hearing of May 17, 1982 the Customs service proposed an amendment to H.R. 5170 which, as we understand it, would have deleted § 2 thereof and inserted in its stead an amendment to § 484(a) requiring that the follow-up entry documentation (the "entry summary") required by § 484(a)(1)(B) "shall be filed only by the titleholder, purchaser or ultimate consignee of the merchandise", or by a licensed Customs broker.

We welcome this approach and have expanded and, we believe, improved upon it in the legislation we are now proposing as a substitute for H.R. 5170. The entry process occurs in two stages, namely, the actual "entry" of the goods under § 484(a)(1)(A), which is done by filing with Customs the necessary documentation to enable release of the merchandise from Customs custody, followed in a second step by the "entry summary" specified by § 484(a)(1)(B), consisting of the filing of such other documentation as is necessary to enable Customs to properly assess duties, collect accurate statistics, and determine whether all other applicable requirements of law have been met. Truly, the concept of "transaction of Customs business" dealt with in § 641 comprehends both parts of the entry process, namely, (a) the entry and physical clearance of the goods, and (b) the preparation and filing of the follow-up entry summary accompanied by duty payment.[2] Therefore we are proposing, as the heart of our suggested legislation, an amendment to the language suggested by the Customs Service at the May 17th hearing which by amendment to § 484(a) would specify that only certain parties may file both the entry documentation required under subparagraph (A) of § 484(a)(1) and the follow-up entry summary documentation required by subparagraph (B). The parties entitled to file would be on the one hand, either the actual owner or the purchaser, or on the other hand a licensed Customs broker. Under this concept, a nominal consignee, who is neither the actual owner or purchaser, nor a licensed Customs broker could not file entries on behalf of any other party, or in its own name. The language we are suggesting in section 4 of the substitute bill would be accomplished by the redesignation of present § 484(a)(2)(C) as subparagraph (D), and the insertion in its stead of a new § 484(a)(2)(C), as follows:

---

[1] All section references hereinafter are to the Tariff Act of 1930 as amended (19 USC).

[2] Other types of entry combine both stages into a single step (so-called "live" entries, and informal entries).

"Notwithstanding any other provision of law, the documentation required by this subsection when for a commercial shipment shall be filed only by the actual owner or purchaser of the merchandise or by a person holding a valid license under the provisions of § 641 of this Act as amended. For purposes of the subparagraph, in the case of goods imported otherwise than by purchase or agreement to purchase and consigned to a sales agent of a foreign firm, the sales agent shall be deemed the actual owner. The party in whose name such documentation is filed shall be deemed the actual owner. The party is whose name such documentation is filed shall be deemed the 'importer of record' for purposes of this subtitle."

The above provision is the key provision of our suggested substitute for H.R. 5170. We think the language suggested above will best accomplish the purposes of § 2-4 of H.R. 5170, namely, to reaffirm the prohibition in § 641 against the transaction of Customs business on behalf of another by an unlicensed party, while at the same time recognizing the right of the actual owner or purchaser at the time the merchandise crosses the Customs line if he so desires to attend in his own right to the transaction of Customhouse business pertaining to his "own" merchandise. In the case of merchandise sent to a resident commercial agent "on consignment", that is, otherwise than by purchase or agreement to purchase, the resident agent is deemed to be the actual owner.

The remainder of the substitute bill implements the concept of establishing the actual owner or purchaser, or a Customs broker, as the only parties entitled to make entry. Section 2 would delete the language in § 483(1) stating that "all merchandise imported into the United States shall be held to be the property of the person to whom the same is consigned". This language, which dates back to the last century, was originally intended to prevent frauds on the government in connection with the importation of merchandise, and, of course, it is the language underpinning the conclusion reached in C.S.D. 81-169, i.e., that the Customs Service would not look behind the "legal fiction" establishing a nominal consignee as the "owner" of the merchandise and therefore entitled to make entry. Under the concepts of our substitute bill, this language has outlived its usefulness and should be repealed.

Section 3 would amend the language at the beginning of § 484(a) by specifying that "one of the parties qualifying as 'importer of record' under subsection (a)(2)(C)" shall make entry, etc. This is to conform to the substitution of the actual owner or purchaser, or licensed Customs broker, as the party entitled to file entries in his own name as importer of record.

Section 4 has already been discussed.

Sections 5 and 6 are conforming amendments to various other provisions of § 484 to substitute the words "importer of record" for the word "consignee".

Section 7 conforms the alternative "carrier's certificate" entry procedures in line with the entry concepts implemented in new § 484(a)(2)(C), in that the carrier would certify, as a party entitled to make entry, only a party qualifying as "importer of record" within the meaning of § 484(a)(2)(C), or an agent of such party. This section further provides that a carrier shall not so certify a party unless it has actual knowledge of the truth of such certification or reason to believe in its accuracy. This provision is intended to preclude the use of the "carrier's certificate" alternative entry procedures as a means to circumvent the new entry requirements of the legislation.

Section 8 amends § 484(i) pertaining to still another alternative procedure for entry upon a duplicate bill of lading and would also conform such entry procedures to the new procedures specified in § 484(a).

Section 9 contains conforming amendments to various other sections of the Tariff Act of 1930 to substitute the language "importer of record" for the term "consignee" in various other administrative provisions covering the entry and post-entry process.

Section 10 specifies an across-the-board effective date of 30 days from enactment.

We have labored long and hard, and negotiated at length with the Customs Service and concerned private parties to arrive at compromise language which, we trust, will undo the mischief created by the issuance of Manual Supplement 3254 while at the same time creating no undue administrative burdens for the Customs Service or unnecessary impediments to the speedy clearance of time-sensitive material by international couriers. We appreciate this opportunity to testify before the Subcommittee on Trade and we especially appreciate the efforts of Representative Frenzel for his continued attempts to correct the unfortunate situation necessitating this legislation.

PROPOSED AMENDMENTS TO H.R. 5170 (MR. FRENZEL)

1. Title of bill and § 1 remain unchanged.

SEC. 2. Section 483 of the Tariff Act of 1930 as amended (19 USC § 1483) is amended by striking from subsection (1) thereof the words "All merchandise imported into the United States shall be held to be the property of the person to whom the same is consigned; and".

SEC. 3. All that language of § 484(a)(1) of the Tariff Act of 1930 as amended (19 USC § 1484(a)(1)) preceding subparagraph (A) thereof is amended to read as follows: "Except as provided in §§ 1490, 1498, 1552, 1553, and 1336(j) of this title and in subsections (h) and (i) of this section, one of the parties qualifying as 'importer of record' under subsection (a)(2)(C) of this section, either in person or by an agent authorized by him in writing—".

SEC. 4. Section 484(a)(2)(C) of the Tariff Act of 1930 as amended (19 USC § 1484(a)(2)(C)) is redesignated as § 484(a)(2)(D), and a new § 484(a)(2)(C) is added to read as follows: "Notwithstanding any other provision of law, the documentation required by this subsection when for a commercial shipment shall be filed only by the actual owner or purchaser of the merchandise or by a person holding a valid license under the provisions of § 641 of this Act as amended. For purposes of this subparagraph, in the case of goods imported otherwise than by purchase or agreement to purchase and consigned to a sales agent of a foreign firm, the sales agent shall be deemed the actual owner. The party in whose name such documentation is filed shall be deemed the 'importer of record' for purposes of this subtitle."

SEC. 5. Section 484(a)(2)(D) of the Tariff Act of 1930 as renumbered by this act is amended by striking the word "consignees" and inserting in lieu thereof "importers of record".

SEC. 6. Sections 484 (c) and (d) of the Tariff Act of 1930 as amended (19 USC § 1484 (c) and (d)) are amended by striking the word "consignee" in both sections and inserting in lieu thereof the words "importer of record".

SEC. 7. Section 484(h) of the Tariff Act of 1930 as amended (19 USC § 1484(h)) is amended to read as follows: "Any person certified by the carrier bringing the merchandise to the port at which entry is to be made to be a party qualifying as 'importer of record' within the meaning of § 484(a)(2)(C) of the Tariff act of 1930 as amended, or an agent of such party, may make entry thereof, either in person or by an authorized agent, in the manner and subject to the requirements prescribed in this section (or in regulations promulgated hereunder) in the case of an importer of record within the meaning of said § 484(a)(2)(C). A carrier shall not certify a person pursuant to this subseciton unless it has actual knowledge of the truth thereof or reason to believe in the accuracy of such certification."

SEC. 8. Section 484(i) of the Tariff Act of 1930 as amended (19 USC § 1484(i)) is amended to read as follows: "Any person may, upon the production of a duplicate bill of lading signed or certified to be genuine by the carrier bringing the merchandise to the port at which entry is to be made, make entry for the merchandise in respect of which such bill of lading is issued, in the manner and subject to the requirements prescribed in this section (or in regulations promulgated hereunder) in the case of a party qualifying as importer of record within the meaning of § 484(a)(2)(C) of the Tariff Act of 1930 as amended, except that such person shall make entry in his own name."

SEC. 9. Sections 485, 487, 494 and 505(a) of the Tariff Act of 1930 as amended (19 USC §§ 1485, 1487, 1494 and 1505(a)) are amended by striking the word "consignee" wherever it appears and inserting in lieu thereof the words "importer of record".

SEC. 10. The amendments made by this Act shall apply with respect to merchandise entered on and after the thirtieth day after the day of enactment of this Act.

46

provided a copy of such trademark registration is filed with the Secretary of the Treasury and recorded in the manner provided by regulations (19 U.S.C. 133.1–133.7). Infringement of federally registered marks is governed by the test of whether defendant's use is likely to cause confusion, to cause mistake, or to deceive.

Stripe designs on shoes, such as the Nike "WING DESIGN," are considered to be in the category of "weak" marks, in light of the common use of stripes and bar designs affixed to the sides of athletic shoes. In one geographic area (Northern Virginia), on one particular day (June 11, 1977), there were over 54 different sports shoes for sale and on display having various configurations of stripes on their sides. *See Dasler K.G.* v. *Superga S.p.A.*, 204 USPQ 688.

When comparing conflicting marks to determine whether or not they are confusingly similar, it is important to consider the impression which the mark as a whole creates on the average reasonably prudent purchaser. It is evident from the appearance of the two marks in question that the two part design on the imported shoes does not resemble the Nike "WING DESIGN" trademark, which has been recorded with Customs for import protection by the American Trademark Owner, BRS, Inc. We note that if the imported shoe were to be displayed upside down, part of the two part design would resemble the "WING DESIGN" trademark. However, we are of the opinion, that under the normal test applicable to unsophisticated buyers of a product at retail, there would be little likelihood of confusion.

Holding: Entry of the imported shoes bearing the two part design described above would not be prohibited as infringing on the registered trademark, "WING DESIGN". The shipment currently under detention may be released to the importer. Our San Francisco office may furnish a copy of this ruling to all parties concerned. We decline to comment on the other marks claimed to be infringing by BRS, Inc. However, as in this case, we will be happy to furnish our views upon detention of a suspected infringing shipment.

(C.S.D. 81-169)

Entry: Manual Supplement 3254 Concerning Courier Service Importations

Date: February 9, 1981
File: ENT-1-01 CO:R:CV:V
715196 MK

This refers to your letters of January 5 and January 16, 1981, on behalf of the National Customs Brokers and Forwarders Association of America, Inc., concerning Manual Supplement 3254, which deals with courier service importations.

47

You believe the Manual Supplement conflicts with 19 U.S.C. 1641, which states that only a duly licensed customhouse broker is authorized to transact Customs business on behalf of another.

You cite several Headquarters rulings in which we have looked behind the entry documents to determine the true facts, and you believe that the Manual Supplement is contrary to those rulings. You urge that we withdraw and redraft it to provide that only licensed customhouse brokers can prepare and file entries when a Customs transaction is done on behalf of another party.

You also believe that the term "business records," which the Manual Supplement provides may be cleared under a baggage declaration, requires clarification because it could be interpreted as applying to articles classifiable under Part 5 of Schedule 2, some of which are dutiable. To protect the revenue and the importing public, you recommend that we require these articles to be cleared as cargo unless they qualify as intangibles, articles classified under item 870.10, Tariff Schedules of the United States (TSUS), or articles of "nominal value" under T.D. 55851.

In resolving the question of the couriers' right to file entries for merchandise they import, several statutory provisions must be considered. Title 19, U.S.C. 1484(h) provides that any person certified by the incoming carrier to be the owner or consignee of the merchandise may make entry thereof either in person or by an authorized agent, in the same manner as a consignee within the meaning of 19 U.S.C. 1483. Section 1641 prohibits anyone except a licensed broker from transacting Customs business on behalf of another. While these sections may appear to be in conflict, they both must be read in conjunction with section 1483. That section states: "For purposes of this subtitle— (1) All merchandise imported into the United States shall be held to be the property of the person to whom it is consigned. (2) A person making entry of merchandise under the provisions of subdivision (h) . . . of section 1484 of this title . . . shall be deemed the sole consignee thereof."

There is no exception for section 1641, which is part of the same subtitle. As far as Customs is concerned, any consignee in the normal chain of custody is the owner, and any business he transacts is for his own account (section 1483). Admittedly, this may be a fiction. However, it is a fiction created by statute and upheld by the courts. See, for example, *Top Form Brassiere Mfg. Co.* v. *United States*, R.D. 11770 (1972), and the cases cited in that decision.

For Customs to administratively hold otherwise is to negate one of the major purposes of sections 1483 and 1484(h), which is to allow Customs to look to the consignee and not be forced to go hunting for the actual owner.

We believe the rulings you cite are distinguishable from the facts involved in courier importations. For example, Ruling No. 711063 concerned a broker who was not licensed in the district in which he wished to file an entry, and who held a bill of lading consigned "to order." Presumably, a bill of lading or an airway bill covering a courier shipment is not consigned "to order." If it were, Customs should not accept it for entry purposes. Ruling No. 399890 also involved a bill of lading consigned "to order."

Ruling No. 399899 dealt in part with completion of one of the declarations printed on a formal consumption entry form. These declarations have been somewhat modified since the date of that ruling (1967), and in any case, the preponderance of courier shipments do not require the filling of a formal entry.

Ruling No. 713041 addressed a unique situation not applicable to courier importations, in which Customs personnel were aware that carriers were being requested to falsify and were, in fact, falsifying documents which certified that the person named therein was the owner or consignee of the merchandise.

Ruling No. 304062 involved shipments sent directly to an importer. Unlike courier service importations, the shipments, the subject matter of that ruling, were not imported by the messenger service and, of course, the messenger service was not designated as consignee of the shipments. Therefore, we ruled that the messenger service could not file entries on the importer's behalf.

Finally, C.S.D. 79-333 involved the acceptability of a power of attorney (Customs Form 5291) granted by an importer to his attorney-at-law. The ruling involved no question of the attorney's right to enter merchandise for which he was legally considered to be the consignee.

While we are not unmindful of the validity of your presentation with regard to a courier service's right to file entries, we conclude that the preponderance of the statutory and judicial authority supports our position.

With regard to the other issue you raise–the need to clarify the term "business records"—we do not believe that the articles included in Schedule 2, Part 5 of the Tariff Schedules (titled "Books, Pamphlets, and Other Printed and Manuscript Matter") could be mistakenly cleared as business records. Part 5 consists of such articles as prints, catalogs, newspapers and postage stamps. Many of these articles are free of duty, and the ones subject to the highest rates, globes, decalcomanias, postcards, greeting cards and calendars, clearly could not pass as "business records." Consequently, we do not believe the Manual Supplement provision endangers the revenue, or that the term "business records" requires clarification at this time. We will reconsider our position with respect to this issue if future circumstances so warrant.

While we have carefully and sympathetically considered the arguments you have presented, we find no basis for acceding to your request to withdraw and redraft the Manual Supplement. We will publish this letter in the Customs Bulletin, for the general information of interested parties.

Subject: Liquidation: ATA Carnets That Undervalue Commercial Samples for Security Purposes Violate 19 U.S.C. 1592 Rendering the Samples Unacceptable for Entry

Date: February 10, 1981
File: CO:R:E:C
652572 HL

District Director of Customs,
Los Angeles, California.

DEAR SIR: Your memorandum of January 16, 1981, forwards the petition of (CORPORATE NAME) a Swiss company seeking refund of $90,000, deposited to secure release of certain watches seized for violation of 19 U.S.C. 1592. A claim for monetary penalty was assessed pursuant to 19 U.S.C. 1592 for undervaluation of the watches which were temporarily entered into the United States on an A.T.A. carnet. An A.T.A. carnet serves simultaneously as a Customs entry document and as a Customs bond (19 CFR 114.3), and is acceptable for goods to be temporarily entered as commercial samples (19 CFR 114.22(a)(2)).

The record before us discloses no evidence of intent to defraud the revenue of the United States. However, the A.T.A. carnet values for the watches were intentionally reduced (pursuant to an industry practice) in order to minimize theft. The watches constituted a sample collection which was shipped around the world so that foreign orders could be placed with the petitioner's travelling sales representative. Following presentation to foreign buyers in the United States, the watches were to be exported.

It is our position that the practice of undervaluing merchandise covered by A.T.A. carnets for security purposes cannot be condoned. Inasmuch as an A.T.A. carnet serves as an entry document, the law requires that information provided thereon be correct (19 U.S.C. 1484). Furthermore, pursuant to Customs Regulations, if merchandise entered under a carnet has not been exported or destroyed within the bond period, liquidated damages under the bond are assessed in the amount of 110 percent of the estimated duties on the articles not exported or destroyed (19 CFR 10.39(d)(2)). Inasmuch as duties are generally calculated based upon the value of the merchandise, values provided upon entry in the A.T.A. carnet must be correct.

In view of the foregoing, A.T.A. carnets that undervalue commercial samples for security purposes should not be accepted.

Chairman **Gibbons**. Mr. Frenzel.

Mr. **Frenzel**. Mr. Shapiro, thank you for your testimony. I think it has been a long and difficult process to try to create a bill which would satisfy all the needs which the witness has described. That is to allow the couriers to do that which they must do; to protect the professional interests of the brokers and at the same time to satisfy the Customs Service which must supervise the activities of both.

I hope the most recent amendments will be satisfactory to all sides. I will be delighted to work with you. I hope that we will finally bring this thing to a conclusion.

I thank you very much for your patience and hope you will not have to come back again on this.

Mr. **Shapiro**. Mr. Frenzel, thank you very much for all the help you have been to us.

Thank you, Mr. Chairman.

Chairman **Gibbons**. Thank you, sir.

Now H.R. 4690 by Mr. Schulze. Our witnesses will be from Bacardi Imports, Mr. Robert B. White and John B. Rehm.

Also, Mr. Schulze has a statement for the record.

STATEMENT OF ROBERT B. WHITE, SENIOR VICE PRESIDENT, BACARDI IMPORTS, INC., ACCOMPANIED BY JOHN B. REHM, COUNSEL

SUMMARY

Under the present section 311 of the Tariff Act of 1930, as amended (19 U.S.C. 1311), merchandise may be withdrawn from a customs bonded manufacturing warehouse and placed in a customs bonded storage warehouse free of duty and internal-revenue tax, so long as such merchandise is destined for exportation.

Such use of storage warehouses, however, is subject to the following two unnecessary and commercially harmful restrictions:

(1) For all merchandise, except certain alcoholic products, the storage warehouse must be located at an exterior, as opposed to interior, port; and

(2) For all merchandise, only one storage warehouse may be used prior to exportation.

H.R. 4690 would eliminate these two archaic requirements and allow all merchandise to be put into one or more storage warehouses, located either at exterior or interior ports, prior to exportation. H.R. 4690 would thereby promote the use of storage warehouses consistent with modern business needs and practices.

Mr. **White**. Mr. Chairman, members of the subcommittee, I am Robert B. White, senior vice president and general counsel of Bacardi Imports of Miami, Fla. I have the pleasure of having with me today our counsel, John B. Rehm.

On behalf of my company, I urge the subcommittee to report favorably H.R.4690 in order to facilitate the use of customs bonded storage warehouses for merchandise destined for exportation. Although the name of my company contains the word "imports", I am here to support the bill which would facilitate exports, not imports.

Merchandise may be withdrawn from a customs bonded manufacturing warehouse and then placed in a customs bonded storage warehouse prior to exportation. Merchandise in a storage warehouse is free from import duty and internal revenue tax, but a provision of section 311 of the Tariff Act of 1930 places two unnecessary and commercially harmful restrictions on the use of storage warehouses.

The first restriction is that the storage warehouse must be located at an exterior port. In other words, section 311 by inclusion of the words "at an exterior port" prohibits the use of inland storage warehouses. Until 1979, this restriction affected all merchandise.

Section 856 of the Trade Agreements Act of 1979 waived this restriction but only for certain alcoholic products. Thus rum is no longer subject to this bar against the use of inland storage warehouses; but all nonalcoholic products can only be placed in storage warehouses at exterior ports. There is no justification for such a distinction.

The second restriction—and it is the second one that my company is more seriously affected by—the second restriction is that only one storage warehouse can be used prior to exportation, not two or more storage warehouses. This restriction, which arises from the use of the word "immediate" in section 311, significantly hampers my company's activities and those of other companies as well. Let me give you two examples.

First, we remove rum from a manufacturing warehouse in Puerto Rico and bring it into this country. We sell the rum in bond to border store operators and ship chandlers for export. The rum is delivered to their central storage warehouses. They would like in turn to withdraw small quantities of rum for rewarehousing in the locations of their tax-free border stores.

Second, we would like to be able to ship merchandise in bond to one or more distributors who would maintain an inventory in storage warehouses from which they would resell the merchandise to border store operators and ship chandlers. These retailers would also like to store the merchandise in a storage warehouse prior to exportation. In both situations, the use of a second storage warehouse is barred by section 311 as it now reads.

This places distilled spirits produced in a manufacturing warehouse in Puerto Rico at a commercial disadvantage vis-a-vis distilled spirits produced in the United States or imported from a foreign country.

The two restrictions were enacted as part of the Wilson Tariff Act of 1894. Whatever justification they may have had almost a hundred years ago has disappeared. These restrictions should be eliminated from section 311 so customs bonded storage warehouses can be effectively used in the export trade.

At the subcommittee's hearing on May 17, 1982, a representative of the U.S. Customs Service expressed support for the bill. Further, we understand the American Warehousemen's Association has endorsed the bill. We know of no person who has expressed any objection to, or even reservation about, the bill, which entails no loss of revenue. We therefore urge this subcommittee to report favorably H.R.4690.

I wish to thank you and would be happy to answer any questions you may have about this bill.

Chairman GIBBONS. Thank you.

Mr. FRENZEL. I ask unanimous consent that the statement of our colleague, Dick Schulze, who sponsored the bill, be inserted in the record at this point.

Chairman GIBBONS. Without objection, so ordered.

[Congressman Schulze's prepared statement follows:]

STATEMENT OF HON. RICHARD T. SCHULZE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. Chairman, I thank the Subcommittee for this opportunity to discuss my bill, H.R. 4690, a proposal to make certain changes to the customs laws. The overall purpose of the bill is to make it easier for businesses to make use of bonded storage warehouses for merchandise moving in international commerce.

Under current law, articles withdrawn from a bonded manufacturing warehouse may be delivered to any bonded storage warehouse at an exterior port for the sole purpose of immediate export. In effect, an article cannot be moved from one bonded storage warehouse to another, even if there are sound commercial reasons for so doing. Such a movement is deemed not to be for the sole purpose of immediate export. H.R. 4690 would allow delivery to successive warehouses, as long as the ultimate purpose remained that of export.

Further, no valid distinction exists between bonded storage warehouses at exterior ports and those at interior ports. H.R. 4690 will eliminate this distinction, and thereby facilitate movements of goods in response to commercial and marketing needs.

The bill has the support of the American Warehousemen's Association, as well as that of the Administration. I urge my colleagues to support the bill, and report it rapidly for full Committee consideration.

Thank you, Mr. Chairman.

Mr. FRENZEL. I would like to ask a question. The reason you need this bill is because you bring in rum and bottle it, and then you want to move it to another warehouse prior to shipping it out of the country?

Mr. WHITE. This rum is bottled in a class 6 customs bonded manufacturing warehouse in Puerto Rico in bond, and it is brought into this country for resale in bond to border stores and to ship chandlers to be consumed outside of the United States.

Mr. FRENZEL. This is an excise tax problem, not Customs?

Mr. WHITE. Well, there is no customs duty involved. However, the fact is that, under section 311 of the Tariff Act, we are unable to warehouse the merchandise more than once, and this puts us at decided disadvantage against distilled spirits imported from a foreign country or produced here under the all-in-bond concept.

Mr. FRENZEL. Are they able to move?

Mr. WHITE. Yes, into multiple storage warehouses.

It is simply a quirk in the law that I would have liked to have seen cleared up in 1979, but when the law was changed at that time, this portion was overlooked.

Mr. FRENZEL. Well, I thank the gentleman for his testimony.

Mr. Chairman, I used to be a member of the executive committee of the American Warehousemen's Association.

Should it give some business to any of my former competitors, I will be delighted.

Mr. WHITE. Thank you, Mr. Chairman.

Chairman GIBBONS. Thank you very much.

Our last bill is H.R. 6239 by Mr. Panetta, and I know Mr. Panetta is on the House floor, because I just left him over there.

He is also a member of the Budget Committee that is handling this very important legislation, so we will leave a place in the record for Mr. Panetta's statement if he has one.

[The prepared statement of Hon. Leon E. Panetta follows:]

STATEMENT OF HON. LEON E. PANETTA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Dear Mr. Chairman, I appreciate the opportunity to testify here today on behalf of H.R. 6239, a bill I have introduced to ensure the future vitality of our nation's rose industry.

About 30 percent of the commercial roses grown in the United States are produced in my district, the 16th District of California. The State of California as a whole producers about 40 percent of our country's domestically-grown roses. Rose growers in California and throughout the country are being threatened by the ever increasing number of foreign roses entering our domestic marketplace at a significant competitive advantage. The great majority of foreign countries exporting roses to this country are subsidized by their governments, in some instances up to 18 percent of their costs. In addition, exporters to this country pay only one-third the tariff rate that is imposed by the European Economic Community during prime growing season. This combination of factors has encouraged substantial numbers of foreign roses to be "dumped" into our domestic market at lower than fair market prices. American rose producers are struggling to compete with the subsidized, under-assessed imported roses flooding our cut flower industry.

In my district, for instance, one rose grower has recently lost four long-established accounts in the last two years, a fact directly attributable to the rising number of foreign rose imports. Another grower, the largest in the country, has not built a new greenhouse since 1978 due to uncertainties in the future domestic cut rose market. In 1981, rose imports increased 54 percent over the number of imported roses in 1980. In 1982, the total market share of foreign roses in the domestic marketplace is likely to reach 15 percent, an amount which the rose growing industry fears will rapidly force domestic rose growers out of the market completely.

The bill I have introduced would restore equity in the trade relations in the rose industry between the United States and the European Community by aligning the United States tariff rates on fresh cut roses to the level that is currently imposed by the EEC.

Since 1977, domestic rose growers have repeatedly petitioned the United States Trade Commission and the International Trade Administration for relief in the form of more equitable tariff rates on imported roses. These petitions have consistently failed to provide relief. Every available legal remedy to secure a correction of this problem has been exhausted by the representatives of domestic rose growers. The only remaining avenue of relief is through legislation.

Our nation's rose growers must be saved from the fate suffered by domestic producers of other cut flowers in this country. Similar inequitable tariffs on carnations and chrysanthemums in recent years have pushed the foreign market share of these flowers to a level that is causing the virtual dissolution of the domestic industry for these flowers. Hopefully, the passage of H.R. 6239 will prevent such demise in our domestic rose industry, and preserve the vitality of the rose industry in the future. I urge the Committee's support of this legislation.

[By subsequent unanimous consent, the statement of Hon. Richard T. Schulze was ordered inserted at this point:]

STATEMENT OF HON. RICHARD T. SCHULZE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. Chairman, I am cosponsor of H.R. 6239, a bill to restore equity in the trade relations in the rose industry between the United States and the European Community. The proposed bill would align tariff rates on fresh cut roses to the same level as is currently imposed by the European Economic Community.

I congratulate and support the Chairman's decision to hold hearings today on this very serious matter which is of great concern to American rose producers and their workers. it is imperative that we take a very long and hard look at what has been transpiring in the floral industry and in particular to the potential harm to producers of fresh cut roses.

In just the past two years, the domestic chrysanthemum and carnation industries have abandoned all hope of maintaining their market position in the face of subsidized foreign imports. By 1981, imports of chrysanthemums and carnations equalled approximately 50 percent of the U.S. domestic consumption, severely reducing the number of domestic producers able to compete in this market.

Mr. Chairman, we must not allow the same fate to overtake the domestic producers of fresh cut roses. Nationwide, this industry employs an estimated 3,600 workers in some 31 states. In my state of Pennsylvania alone, some 243 people are employed producing roses, making it the second largest producer of fresh cut roses in the United States. The loss of one more producer to subsidized foreign competition is not just the closing of another company, but must be measured in human terms. The loss of a job and a future in these rough economic times should not be underestimated.

Most of the fresh cut rose producers are small, family operated companies, not able to compete successfully with the heavily subsidized industries of such major importers as Colombia, Israel, and The Netherlands. As a result, the same import trends which overwhelmed the chrysanthemum and carnation industry are presently occurring in the fresh cut rose industry.

Total U.S. apparent consumption of roses in calendar year 1981 is estimated by Roses Incorporated at 505 million blooms. Imports will supply 14.6 percent of that market, up sharply from the 9.6 percent share for total imports in 1980. Further import increases are imminent for 1982, possibly breaking through the critical 15 percent market share. If such increases in foreign imports are allowed to go unchecked, much of the domestic rose-producing industry will be in jeopardy.

I believe it is apparent from these figures that the steps proposed by H.R. 6239 are urgently needed. By aligning United States tariff rates on fresh cut roses to the same level as it is currently imposed by the European Community, the bill will restore equity within the international rose-growing and rose-consuming communities. No longer will the European Community be able to exclude American roses, and no longer will the European Community be able to deflect countries' roses into the American market.

Chairman **Gibbons**. Our witnesses are Roses Inc., and Florists' Transworld Delivery Association.

STATEMENT OF JAMES C. KRONE, EXECUTIVE VICE PRESIDENT, ROSES INC., ACCOMPANIED BY TERENCE P. STEWART, COUNSEL

Mr. **Krone**. My name is Jim Krone, executive vice president of Roses, Inc.

I guess we have the pleasure of bringing today's activities to a flowery end.

Chairman **Gibbons**. That is a good one.

Mr. **Krone**. I hope that your top is more lively than my bottom. It has been kind of a long day.

You have my written statement as has been presented.

Chairman **Gibbons**. Yes, sir. We will put that in the record, Mr. Krone. Perhaps you could inform us better about the flowery problems we have here.

Mr. **Krone**. A couple of key points. We are very much interested in the bill and obviously support it.

The trade association represents over 80 percent of the rose growers of the United States. Our position in the bill, and interest, I guess, or reason for the bill, simply boils down to this: we look at the Netherlands, they grow something like a billion roses annually, and we realize, they're in a very favorable position.

They can live in that EEC market, and they can ship to West Germany and the other EEC markets where you have excellent places to sell flowers.

When we try to ship to those countries anything from the United States, we have to be concerned with their tariff laws. A Dutch grower, though, he can send his flowers to the West German market, pay no duty, send his flowers to the American market, 8-percent duty, and he is shielded really from any other non-EEC country grower, Colombia as an example.

They sit there and look at the market and say, where shall I ship our roses, and if we go to the EEC countries, we will experience a

24-percent duty rate there, tariff and insurance, and if they ship to the United States, they will only pay 8 percent.

The decision has got to be 16 percent, as we see it, in favor of sending additional product to the United States. This, in the course of things, brings us to wanting to equalize this, simply to put on an equal footing the U.S. rose grower with our Dutch counterparts, and we are hopeful that the subcommittee can give us a hand in this regard.

If I were a member of the subcommittee, I would be looking at this sort of thing and saying, why is this industry coming here and bothering Congress with something where there are already remedies available for this sort of problem, the International Trade Commission, the ITA, and the Department of Commerce. In my statements that I filed with you now, we have pretty clearly stated and shown that we have tried those things.

We started back in 1977 with actions in these areas. We have been in two 201 escape clause petition actions and have been in an antidumping suit.

Frankly, we just are frustrated, you've got to know. We've received very, very little support for our causes. We think we have had good cases but we have been frustrated in the case of our antidumping petition, it was filed back in the middle of 1981. They denied the petition, and we took it to the U.S. Court of International Trade in April of this year. Some 9 months later, the court says to Roses, Inc. and to the ITA, that investigation should have been reinstated and carried forward.

A week later we find out the ITA plans to appeal the thing which will take us another year. We look at these things and say there is a year coming off on the antidumping and a year, maybe more. In appeals on countervailing and to try to do it under a 201 escape clause is frustrating to us, because that is another year away—during which these guys on the offshore import things are sawing off another 5 percent of our market share. We look at some of our fellow growers and we know that the importers already have 55 percent of the carnations and pompons grown offshore. We know a number of growers have gone out of business in those cut flower areas and it scares us.

We have come to Congress at this point as a last resort. We figure, and I guess this is sort of a new adventure for a Michigan flatlander, but we understand this is a pretty unusual situation to be asking this kind of treatment from Congress, but we maintain our industry is also extremely unusual and delicately balanced.

Look at our primary growing structure owned mostly by mom and pop family businesses, and the prime structure that they have, the greenhouse, as their prime asset, and it is a single-use thing. They are either going to use it for an environmental growing chamber or turn around and have to tear it down because he cannot use it for a restaurant or office space or something of this sort.

There is no secondary use for his primary asset. His family is on a very delicate balance of being able to sell these roses that he has growing there.

The rose planted in the greenhouse is grown generally for a period of 4, if not 7 years, in order to make it economically feasible for him to switch from variety to variety. It is a long-term commitment he makes. The rose itself is an extremely perishable critter. We have not yet been able to find some other way we can make use out of them or freeze them or can them.

The grower, he goes forward with, say, the Mother's Day market, and he has a relatively narrow market window that he can put a crop through. He shoots it through the market window for Mother's Day and maybe he has a 7-day time frame to get it in there, and if he does not hit that market just right, he is not going to sell the product.

He pushed the product right through that window just perfectly because he has a controlled environment greenhouse, and does things right.

Our U.S. rose growers have been at this business for a while and can put a good product into the market and at a time when the market needs it. For this past Mother's Day, there were a million additional roses from Colombia when they were not there a year ago.

We keep running into this kind of a situation that knocks us out of the ball park, and with that kind of a balance, we feel we have every capability of being able to compete, if we have things within our control.

Some of these things, the tariff situations are beyond our control, so we felt we have no choice but to come to Congress and ask that you help us to make this great democratic world of ours work. We surely would appreciate your help.

I have with me from the law offices of Eugene Stewart, Mr. Terence Stewart who is here to assist and answer questions.

[The prepared statement follows:]

STATEMENT OF JAMES C. KRONE, EXECUTIVE VICE-PRESIDENT, ROSES, INC.

I. INTRODUCTION

Good morning. I am James C. Krone, Executive Vice-President of Roses, Incorporated, the Commercial Rose Growers Association. I am very grateful for having the opportunity to appear before this committee, on behalf of Roses, Inc. and its member rose growers, this morning, to express our support for H.R. 6239, a bill which would align U.S. tariff rates on fresh cut roses with those currently being imposed by the European Economic Community. I am accompanied by Terence P. Stewart, an attorney with the Law Offices of Eugene L. Stewart, a law firm located in this city, who will be glad to answer any of your questions after my testimony.

As background material, I would like to set forth the following information which will indicate the gravity of the situation and show the need for legislation in this area.

Roses, Incorporated (Roses, Inc.) is the national trade association which represents the interests of domestic growers and wholesalers of roses. In addition, Roses, Inc. organizes research programs for its members in the areas of energy conservation, production efficiency and public relations to help make the industry more competitive. In 1980, its 190 grower members accounted for approximately 84 percent of the domestic production of the 19.64 million rose plants grown in the United States.

In the last ten years, foreign countries have found the American market for cut flowers so lucrative they have been able to increase their imports of two major cut flowers, pompon chrysanthemums and carnations, to over 55 percent of the market share.

Rose growers, as well as the cut flower industry in general, fear that the same penetration will occur in the $111 million U.S. market for fresh cut roses. To demonstrate the gravity of the situation, in 1972 only 0.4 precent of the roses sold here were imported. During 1981, approximately 15 percent of the 500 million roses sold that year were imported. In the one year period between 1980 to 1981 rose imports increased 54 percent.

Meanwhile, since 1972 the number of rose growers has decreased from 317 to 222. Our records indicate that most of these former growers had small family owned operations. Rose growers are especially vulnerable to changes in the marketplace because of the sizeable investments in specially built greenhouses due to the fact that rose growers cannot easily sell the structure or convert to it another enterprise.

Since 1977, the floral industry, including the rose growers, has sought relief from the ITA and the ITC. Although the agencies have determined that subsidization by foreign governments of rose imports has occured, no satisfactory resolution is in sight.

IMPORTS AND SUBSIDIES

The major reason for such a strong penetration of the U.S. rose market by imports is that rose growers in two of the major exporting countries—Holland and Israel—are subsidized by their governments. And the third, Colombia, has been charged with dumping roses in the United States market.

In Holland, the world's leading producer of fresh-cut roses, the government provides subsidies for greenhouse construction and energy costs.

The Dutch government contributes 18 percent of the cost of new buildings, including greenhouses; 13 percent for other permanent installations; and 11 percent for improvements to existing buildings. In addition, Holland provides heating subsidies to its greenhouse industry. In the United States, energy costs account for about 19 percent of the total production costs, but U.S. growers receive no government subsidies to help defray these costs.

In September 1980, the International Trade Administration determined that roses imported from Israel were subsidized by the Israeli government and set a duty rate of 1.55 percent on these imports.

The industry also has petitioned the ITA to investigate alleged dumping (selling below fair value) of roses imported from Colombia. While appeals on this issue have been tied up the U.S. Court of International Trade, Colombia sharply increased its imports of cut roses 50 percent from 1980 to 1981 to a current 54 million a year. Colombia is the largest supplier of imported roses, representing over 80 percent of U.S. imports. (Holland, Israel and Colombia together supply 95 percent of the imported roses.)

In addition to the subsidy advantages enjoyed by the major importing countries, these importers pay only one-third the tariff rate imposed on American exports by the European Economic Community during prime growing season. The floral industry's parent trade association, the Society of American Florists, has tried without success to convince EEC member countries to lower tariff rates.

As a result, domestic rose producers must struggle to compete with underpriced and underassessed imported roses flooding the American marketplace.

MARKET PENETRATION BY FOREIGN GROWERS

[In percent]

Crop	1972	1976	1981
Pompons	10.5	32.9	54.8
Carnations	8.3	25.9	58.7
Standard mums	9.1	7.0	19.9
Roses	0.4	1.3	14.6

THE U.S. ROSE INDUSTRY

The U.S. Department of Agriculture listed the farm gate (wholesale) value of hybrid tea and sweetheart roses for 1981 at about $111 million. The 222 U.S. growers cultivated approximately 18.6 million rose plants during 1981 that produced about 428 million cut roses that year.

The largest producing state, by far, is California with over 6.6 million rose plants grown in 58 greenhouses by about 1,300 employees. The other top ten producing states are Pennsylvania, Indiana, Colorado, New York, Ohio, Illinois, Oregon, Massachusetts and Michigan. (See Justification Memoranda).

Since U.S. rose growers are generally very small operations, the influx of imported roses has had an immediate economic effect on the industry. In the last 10 years, over 30 percent ot the growers have gone out of business.

Similarly, the sales of domestically produced roses have declined. In 1972, about 432 million stems were sold; in 1981 that figure dropped by more than 10 million.

Clearly, the rose industry is concerned it will suffer the same fate as other domestically grown fresh-cut flower growers. In the past 10 years, the market share losses for pompon chrysanthemums increased from about 10 percent to 55 percent. Carnations fared even worse, as imports increased from about 8 percent of the market in 1972 to 59 percent in 1981. Even if they had the conversion capital, growers of the two industries could not easily convert to other crops.

Nor would rose growers be able to convert their greenhouses or their land to other crops without expensive renovations. Large rose-growing greenhouses are single-use structures that are of little value if resold. Imports dominate markets for almost all comparable perishable commodities such as tomatoes and other cut flowers. Nor can cut roses be preserved for other markets; their only value is in the fresh market.

ACTIONS TAKEN BY THE INDUSTRY

Roses, Incorporated, a national trade association representing over 80 percent of domestic rose growers who produce 92 percent of roses grown in the United States, has taken a number of actions in an attempt to equalize the international trade market in fresh out roses. It has petitioned the International Trade Commission and the International Trade Administration to adjust tariffs on imports, with limited success. A petition before the ITA resulted in a determination that roses imported from Israel were being subsidized by the Israeli government, and a rate of 1.55 percent was set to offset the subsidies. Roses, Inc. has appealed that decision in 1980 to the U.S. Court of International Trade because it believes that the tariff rate is too low. That case is still pending with the Court.

In June 1981, Roses, Inc. also filed an anti-dumping petition against Colombia with the International Trade Administration. The trade association appealed the ITA's decision not to investigate this complaint to the U.S. Court of International Trade, which overruled the ITA and ordered that agency to commence its investigation April 28, 1982. Rather than follow the ruling of that Court and commence with the antidumping investigation, the ITA has appealed this decision to the U.S. Court of Customs and Patent Appeals. Their final decision in this matter is not anticipated for about a year.

The Society of American Florists approached several countries that are members of the European Economic Community to negotiate lowered tariffs on American imports, but were unsuccesful. The EEC has a 24 percent tariff on rose imports during its prime growing season, which is 300 percent higher than the U.S. rate during its principal growing season.

Blocked from exporting fresh cut roses to Europe because of high tariffs, unable to gain satisfactory relief under current trade law through the ITA, the ITC, and the USTR, and rapidly losing its share of the domestic market to subsidized imports, the rose industry has turned to Congress as a last resort.

Roses, Incorporated and its member grower supports H.R. 6239 introduced April 29th by Congressman Leon Panetta and Congressman Lantos of California to align U.S. tariff rates on import of fresh cut roses at the same level as the EEC. Already this bill is co-sponsored by eleven congressmen and each day more join in this effort to help rose growers located throughout America by controlling the steady flow of underpriced and underassessed foreign roses being imported into the U.S. fresh cut flower market.

CONCLUSION

The U.S. rose industry could easily face extinction unless imports are regulated. Rather than asking to restrict imports through quotas, the industry is supporting legislation that would make U.S. tariffs on imports equal to the tariffs currently imposed by the European Economic Community—24 percent during the prime growing season and 17 percent during the lower production season.

Since the United States has acquiesced in the refusal of the EEC to lower its tariffs, and thus, allow for American growers to enter that market, the U.S. industry feels that this as the only equitable means of ensuring the survival of their product in their own marketplace.

Justification for Proposed Amendment of Tariff Schedules of United States to Align U.S. Tariff Rates on Fresh Cut Roses to Those Imposed by the European Economic Community on Imports of Roses from the United States and Other Countries

I. Introduction.

This memorandum is in justification of the legislation which members of Roses Incorporated are requesting their representatives in the Congress to introduce and to enact during the second session of the 97th Congress (i.e., in calendar year 1982).

Roses Incorporated is the trade association which represent domestic growers of roses. In 1980, its 190 grower members accounted for about 84% of the domestic production of roses from 19.64 million rose plants in the United States.

The rose greenhouse firms which are members of Roses Incorporated in the United States are mostly family owned enterprises. They employed in 1981 approximately 3,600 workers, of whom about 3,225 are production workers. They are located (in order of number of rose plants in production) in the following 31 states:

State	Number of Rose Plants	No. of Rose Greenhouses	Number of Workers Producing Roses[a]
California	6,600,393	58	1,285
Pennsylvania	1,242,620	13	243
Indiana	1,173,280	8	229
Colorado	1,073,453	13	210
New York	918,131	11	180
Ohio	720,593	9	141
Illinois	629,020	5	123
Oregon	612,000	3	120
Massachusetts	581,312	6	114
Michigan	457,683	6	90
New Hampshire	334,000	2	66
Minnesota	280,630	12	55
Utah	260,755	3	51
Washington	252,506	3	50
Wisconsin	159,240	5	32

State	Number of Rose Plants	No. of Rose Greenhouses	Number of Workers Producing Roses[e/]
Kentucky	154,835	3	31
North Carolina	148,148	4	30
New Jersey	119,000	2	24
Connecticut	118,200	2	24
Hawaii	109,000	2	22
Alabama	90,000	1	18
Virginia	89,864	2	18
Iowa	75,570	4	15
Missouri	73,400	2	15
West Virginia	63,180	2	13
Maryland	45,184	2	10
Idaho	32,000	1	7
Florida	11,500	2	3
Georgia	10,800	1	3
Arkansas	3,550	1	1
New Mexico	1,080	2	2
United States	16,440,927	190	3,225

Source of data: Number of plants and greenhouses, actual; number of workers producing roses, (e-estimate), based on ratio of blooms to plants, aggregate of hybrid tea and sweetheart roses, per U.S. Dept. of Agriculture, Floriculture Crops, Production Area and Sales, 1979 and 1980, Intentions for 1981, Washington, March 1981, and rose bloom sales to man-hours of work of production workers, U.S. International Trade Commission, Publication 1059, April 1980, Table 8, and number of rose plants in production, Roses Incorporated 1980-1981 Membership Directory and Buyer's Guide.

II. Gravity of the roses import problem, and efforts of Roses Incorporated and its members to secure corrective action through established trade remedies.

(1) In January 1977, the Growers Division of the Society of American Florists and Ornamental Horticulturists petitioned the United States International Trade Commission for import relief in the form of tariff adjustment under Sec. 201 of the Trade Act of 1974. The basis for the petition was that imports of the principal fresh cut flowers had increased rapidly during the five preceding years (1972-1976). The portion of domestic consumption supplied by imports increased during that period as follows: for pompon chrysanthemums, from 10.5% to 32.9% of the market; for carnations, from 8.3% to 25.9%; for roses, from 0.4% to 1.3%. Only standard chrysanthemums had registered a decline in import penetration during the period, dropping from 9.1% to

7.0%. In its report dated August 1, 1977, the Commission denied relief to the domestic industry. A factor in its decision was a cable from the American Embassy in Colombia to the Department of State advising that the Colombian Government had suggested to its flower growers that they limit exports of cut flowers to the U.S. and Western Europe, suspend further plantings of carnations and pompons, and limit export volume of those flowers to the absorptive capacity of the U.S. and European markets. USITC Publication 827, August 1977.

(2) That negative decision was a signal to foreign producers to increase their production of fresh cut flowers so as to boost their exports to the United States. The "suggestions" of the Colombian government amounted to mere empty promises. Imports of all fresh cut flowers increased rapidly. By 1979, the penetration of the American market by imports reached the following levels: for pompon chrysanthemums, 48% of the market; for carnations, 44%; for standard chrysanthemums, 14%; and for roses, 7%. USITC Publication 841, November 1981. The imports dominated the markets for other fresh cut flowers, and caused serious market disruption in the markets for roses.

(3) In these circumstances, Roses Incorporated filed three separate actions for import relief on November 15, 1979:

(a) a petition with the U.S. International Trade Commission under section 201 of the Trade Act of 1974. On April 15, 1980, the Commission denied relief. USITC Publication 1059, April 1980.

(b) a two-pronged joint petition with the International Trade Administration, Department of Commerce, and the U.S. International Trade Commission under Sec. 703 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979:

(i) requesting the imposition of countervailing duties on roses from the Netherlands; and

(ii) requesting the imposition of countervailing duties on roses from Israel.

(c) The action against roses from the Netherlands was subject to the injury test added to the countervailing duty law by the Congress in the 1979 Act for articles imported from countries which had become signatories to the International Subsidies/Countervailing Duty Code negotiated during the Tokyo Round of Trade Agreement Negotiations. In February 1980, the International Trade Commission determined that there was no reasonable indication of injury, terminating the action. USITC Publication 1041. Relief denied.

Spurred by this negative decision, the Dutch flower industry has announced a major export drive to increase its penetration of the American market. The Flower Council of Holland, which represents the multibillion dollar flower industry of the Netherlands, has launched a major program to strengthen its position in the United States market. This drive will include the opening of the Flower Council of Holland's American headquarters. An integral part of the new program will be an extensive communication and advertising campaign. Advertising and marketing agencies have been appointed. The Holland Flower industry has established delivery methods which give it the capability of servicing every major population center in the United States in a matter of hours. For example, a recent shipment of flowers that left the auction at Aalsmeer, Holland, late on a Monday morning was in Atlanta at 5 p.m. *the same day*, and the flowers were delivered in first class condition to their ultimate destination in High Point, North Carolina less than 24 hours after they were purchased. *Flower News*, December 5, 1981, p. 4. The potential of this program is implied by the fact that the Netherlands has 8,500 floral greenhouse firms. The Dutch are the world's leading producer of fresh cut roses, growing more than 1 billion rose blooms annually - more than twice U.S. production and consumption. About 85 percent of Dutch sales are for export. *Florists' Review*, December 3, 1981, p. 45; USITC Publication 1059, April 1980, p. A-13. The Agricultural Economic Section, Foreign Agriculture Service, U. S. Dept. of Agriculture, advises that the Dutch plan to increase their penetration of the U. S. flower market *five-fold* in the next five years, and that they have a very sophisticasted marketing system which is far better than the other countries now shipping to the United States. (Remarks of Ms. Alyn Beauchamp before the meeting of the American Farm Bureau on Floriculture Imports, Nov. 16-17, 1981).

Meanwhile, the subsidies paid to its greenhouse industry by the Dutch Government continue unabated. As of January 1, 1981, the Dutch government contributed 18 percent of the cost for firms building new buildings, including greenhouses; 13 percent for firms building other permanent installations, and 11 percent for firms improving existing buildings. To encourage small business, there was an additional subsidy of .25 percent and 6.0 percent. For firms locating in the eastern portion of the country, there was an add-on subsidy of 10 percent for permanent installations and 20 percent for new buildings, including greenhouses. Firms locating out of the populated areas in the western portion of the country can get an additional subsidy of 7.5 percent for permanent installations, and 15 percent for new buildings including greenhouses. Florists Review, December 3, 1981, pp. 44, 46.

The greenhouse production of roses and other fresh cut flowers in a climate such as that in Holland (and the United States) is energy intensive. In the United States, energy costs account for 19% of total costs of production. USITC Publication 1059, April 1980, p. A-25. Unlike the United States, however, The Netherlands government provides heating subsidies to its greenhouse industry. Because of the competitive advantage which its low energy costs give the Dutch greenhouse industry, the European Economic Commission has informed the Netherlands government it must end the subsidies (which are in the form of a special preferential natural-gas tariff for horticulture) by October of 1982. The Netherlands government has refused to comply with the one year edict, and the case is expected to be placed before the European Court of Justice. The resolution of this issue by the Court is expected to take several years. In response, the government of the United Kingdom has extended for another year heating fuel aid given to the British greenhouse industry, declaring that such action was necessary in the face of subsidized competition from Dutch flowers to "retain a viable and successful British glasshouse industry". Further, the European Commission has allowed special aid to be paid to glasshouse growers in other member countries to cancel out the Dutch preference. Financial Times, November 19, November 24, 1981. At the December plenary session of the European Parliament, its Energy Committee requested an emergency debate on energy prices in horticulture because of the Dutch gas price subsidies which distort competition in favour of the Dutch greenhouse industry. In the debate, a resolution was presented stating that the European Parliament considers "unacceptable" the decision of the European Commission allowing the Netherlands until October 1982 to abolish the special tariffs for natural gas intended for greenhouse horticulture because it will permit Dutch horticulturalists to benefit from unfair asdvantages in a new marketing year. The Parliament considers that the Dutch government "is continually putting the matter off deliberately" and is showing "flagrant contempt" for Community laws. Europe, 30 November/1 December 1982, p. 12; December 19, page 8.

(d) The action against roses from Israel was not subject to the injury test because Israel had not signed the international agreement. On September 4, 1980, the International Trade Administration published an affirmative final determination that roses imported from Israel were being subsidized by the Israeli Government, and it estimated a countervailing duty rate of 2.02% to offset the subsidies. 45 Fed. Reg. 58516-19. Subsequently, the I.T.A. reduced that rate to 1.55%. 46 Fed. Reg. 44486-87.

Roses Incorporated believed that the rate was far too low, and on September 16, 1980 it initiated a civil action in the U.S. Customs Court (now the U.S. Court of International Trade) seeking judicial review of the I.T.A. determination. Roses Incorporated filed a motion for summary judgment as soon as the case was at issue. On August 5, 1981, the Court remanded the case to the I.T.A. for verification and further investigation of three issues which Roses Incorporated had presented to the Court. On December 24, 1981, the I.T.A. forwarded its report of further investigation to the Court. The I.T.A. found that the proper subsidy rates to be applied to the three types of subsidies challenged by Roses Incorporated which the I.T.A. had previously determined to be zero are 2.5% to offset the subsidy provided in the Israeli Government-backed minimum price program, 8.54% to offset the benefits provided under Israeli Government-sponsored loans for financing export related working capital and accounts receivable, and 0.12% for Israeli Government financial assistance granted to Agrexco (the partially Government owned export marketing organization which exports roses to the United States and which has a major import terminal and marketing facility for fresh cut flowers at JFK Airport in New York) for the expansion of its facilities at Ben Gurion Airport. Total countervailing duty rate: 12.71%, instead of the 1.55% which Roses Incorporated challenged in its civil action.

Further proceedings will be held by the Court, based upon the I.T.A.'s report of its further investigation, and the supplemental record, which is being forwarded to the Court on January 4, 1982. A final decision of the Court is still weeks, possibly months away, and then may be appealed by any disappointed party to the proceeding. Meanwhile, the domestic rose-growing industry has been denied, and for the immediate future will be denied the relief to which it is entitled under the countervailing duty law by the erroneous decision of the I.T.A. more than one year ago, in September 1980.

(4) In the meantime, while Roses Incorporated was systematically being denied relief under the domestic law proceedings it had initiated, imports of fresh cut flowers have continued their rapid increase. By 1980, the penetration of the American market by imports reached the following levels: for pompon chrysanthemums, 50% of the market; for carnations, 49%; for standard chrysanthemums, 15%; and for roses, 9%. USITC Publication 841, November 1981. The major portion of imports of roses is from Colombia, accounting in 1980 to 81% of total imports. The next largest suppliers of imported roses are Israel and The Netherlands, who together supplied 14% of total imports in 1980. So over-whelming have been the imports of chrysanthemums and carnations that those domestic industries have abandoned all hope of maintaining their position in their own market. The trade association of carnation growers has ceased operations, and the chrysanthemum growers association, with a dwindling membership, is actively considering dissolution.

(a) Determined to prevent its member growers from being destroyed by the unfair competition of subsidized and dumped imports, as has been the case in chrysanthemums and carnations, Roses Incorporated commissioned independant market research to investigate the possibility that the overwhelming proportion of imported roses - those from Colombia - were being sold at less than fair value in the U.S. market. It received the report of the marketing research firm in the Spring of 1981, and promptly filed an antidumping petition against fresh cut roses from Colombia with the International Trade Commission on June 4, 1981. On June 24, 1981, following extensive communication with the Embassy of Colombia, in violation of the Congressional instructions that the sufficiency for investigation of antidumping petitions be determined without reference to the views of other interests, the International Trade Administration dismissed the petition of Roses Incorporated.

Relief denied. Investigation refused.

(b) On July 9, 1981, Roses Incorporated promptly filed a civil action with the U. S. Court of International Trade seeking judicial review of the I.T.A.'s refusal to investigate the dumping of roses from Colombia, as alleged in the petition. On July 20, two trade associations of Colombia rose producers filed motions to intervene in the Court proceeding. Roses Incorporated opposed such intervention. On August 21, 1981, the Court denied the motions for intervention. The administrative record was filed with the court on September 1. In response to Roses Incorporated's request, the Court on October 8 designated the case for review upon the administrative record. On October 15, 1981, Roses Incorporated filed its motion for judgment on the administrative record. The Government's response was due on November 14. It has twice requested an extension of time for submission of its response. As of year-end 1981, the Government has not responded to that motion. Not only has Roses Incorporated been denied the right to an antidumping duty investigation by an improper refusal to investigate by the administrative agency, it is being frustrated in its right to expeditious judicial review by the delaying tactics of the Department of Justice.

(5) As if encouraged by the protection which its rose growers/exporters have been provided by the U. S. International Trade Administration's refusal to investigate the allegations of injurious dumping presented by Roses Incorporated, and the Justice Department's frustration of the domestic growers' right to an expedited judicial review of the I.T.A.'s dismissal of the antidumping duty petition, the Colombian growers have sharply increased their exports to the United States. During the twelve months ended October 1981, U.S. imports of fresh cut roses from Colombia totalled 54.0 million, compared with a total of 36.0 million in calendar year 1980. U. S. Dept. of Commerce, Bureau of Census, IM 146, Nov., Dec. 1980, Oct. 1981. This represents a 50% increase in the space of one year. At the same time, rose growers in Israel and the Netherlands appear to be equally encouraged by the favorable treatment which they have received at the hands of the U. S. agencies charged with enforcing the trade laws: imports from Israel and The Netherlands, in the aggregate, in the twelve months ended October 1981 totalled 9.7 million, compared with a total of 6.4 million in calendar year, an increase of 52%. Total

imports, from all countries, during the 12 months ended October 31, 1981 totalled 68.6 million blooms, compared with total imports of 44.5 million blooms in calendar year 1980, an increase of 54%.

(6) Total U. S. apparent consumption of roses in calendar year 1981 is estimated by Roses Incorporated at 505 million blooms. Imports will supply 13.6% of the market, up sharply from the 9.6% market share for total imports in calendar year 1980. The domestic rose growing industry is faced with the imminent prospect of imports breaking through the 15% market share benchmark in 1982, a level which signals such market entrenchment that from that point on domestic growers are rapidly forced out of the market. This happened to carnations and pompon chrysanthemums in 1973 - 7 years later the importers owned the domestic market for those fresh cut flowers.

III. The Need and Justification for the Domestic Rose Growers to Request the Congress to Provide Tariff Treatment Comparable to That Provided by the European Economic Community to its Rose Growers.

The information presented in the preceding section shows that Roses Incorporated has invoked every available domestic law remedy to secure a correction of the import problem. It has exercised prudence and foresight in attempting to invoke the remedies provided by the Congress to prevent the serious injury of a domestic industry from fair competition, and to prevent material injury to a domestic industry from the unfair competition of dumping and government subsidization. It has been denied relief in every forum. It has found each remedy to be unavailing to help stem the onrushing tide of imports which threaten destruction of its members.

The three principal foreign countries supplying roses to the United States, Colombia, Israel and the Netherlands, in the 12 months ended October 1981 accounted for 93% of total U.S. imports of roses. Together they possess the existing annual capacity to produce 1.3 billion rose blooms (1 billion, Netherlands; 65 million, Colombia; 190 million, Israel; see USITC Publication 1059, April 1980, p. A-13 re Netherlands and Israel; Colombia is reported to export 83% of its rose production to the United States, therefore the 54 million blooms actually imported into the U.S. during the past 12 months divided by 83% yields estimated production of 65 million blooms). Each of these countries exports more than 80% of its production. Thus, the three could export an aggregate of 1 billion blooms to the United States, equivalent to twice total U.S. demand. Each of these sources increased its exports to the United States by more than 50% in 1981. Together they are pressing their aggregate market share against the 15% danger point beyond which rapid elimination of U.S. growers from the rose market will occur. They have resolutely, and successfully opposed the efforts of Roses Incorporated to secure for its U. S. grower members the benefits intended by the Congress. The administrative agencies have taken the side of the foreign suppliers, and they are organized with sophisticated marketing resources to accelerate their take over of the American rose market.

In these circumstances, the grower members of Roses Incorporated turns to their elected Representatives and Senators in the U. S. Congress to petition for a redress of these grievances. Specifically, the domestic rose greenhouse firms request the Congress to amend the U. S. tariff so as provide the same type of import duties which the European Economic Community maintains against imports of roses from the United States, Colombia and other countries. That Treatment is as follows:

Section II, Chapter 6, Heading Number 06.03 of the Common External Tariff of the European Economic Community specifies the rates of duty to be applied to imports of roses and other fresh cut flowers from outside the Community, as shown on the following page:

Heading Number	Description	Rate of Duty	
		Autonomous	Conventional
		%	%
06.03	Cut flowers and flower buds of a kind suitable for boquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared:		
	A. Fresh:		
	I. From 1 June to 31 October	24	24
	II. From 1 November to 31 May	20	17
	B. Other:	20	-

The EEC refused to negotiate any concession on the rate applicable to fresh cut flowers in the recently concluded (1979) Tokyo Round of trade agreement negotiations. In the preceding negotiations, the Kennedy Round, concluded in 1967, the EEC negotiated a binding at the full rate of the tariff applicable to imports during the principal growing season in Europe, June 1 to October 31; it granted only a 3%-point reduction from the 20% rate applicable to "off-season" imports (i.e., from 1 November to 31 May). The United States accepted this long-standing position of the EEC to grant no meaningful concessions on its external tariff on fresh cut flowers. The principal beneficiary of that policy is The Netherlands.

Contrast the action of the United States: it has reduced its full duty rate of 40% ad valorem to the level of 4% on miniature carnations, and to 8% on roses and other fresh cut flowers. The U. S. cut the tariff on fresh cut flowers by 15%-points in trade agreements with Canada and the United Kingdom, effective 1939; by an additional 12 1/2%-points in the initial GATT negotiations, effective 1948; by an additional 2 1/2%-points in the GATT (Dillon Round) of tariff negotiations, effective 1963; and by 6%-points on miniature carnations, and 2%-points on roses and other fresh cut flowers in the Tokyo

Round. During the life of the European Economic Community (1957 to the present) that body has refused to grant any concessions on fresh cut flowers, including roses, during its principal growing season, and only 3%-points for imports during the off season. Its tariff level of 24% for imports during its prime growing season is 300% of the U.S. rate.

The domestic rose greenhouse firms believe it is reasonable, equitable and just for the Congress to amend the U.S. tariff to provide customs treatment on U.S. imports of roses equivalent to that which the EEC - with the agreement of the United States - has insisted upon retaining for the protection of the fresh cut flower greenhouse industry in the European Community.

H.R. 6239 introduced by Congressman Panetta will accomplish this purpose. The domestic rose growers request that the Congress of the United States enact this legislation during the second session of the 97th Congress. Time is of the essence for this requested action.

Respectfully submitted,

Roses Incorporated
1152 Haslett Road
Haslett, Michigan 48840

Mr. C. Richard Wright
President, Roses Incorporated
c/o Office of the President
Utah Roses, Inc.
P.O. Box P
Sandy, Utah 84070

Mr. James C. Krone
Executive Vice President
Roses Incorporated
1152 Haslett Road
Haslett, Michigan 48840

Law Offices of Eugene L. Stewart
Eugene L. Stewart, Esq.
Special Counsel
1001 Connecticut Ave., N.W.
Washington, D.C. 20036

May 26, 1982

Chairman GIBBONS. As I understand your complaint, Mr. Krone, what you are saying is that the European community has a high tariff and we have a low tariff, and when producers of roses in third countries want to ship, they try to hit a low tariff country to get as much margin as possible.

Is that what happens in your business?

Mr. STEWART. That is only part of the answer.

The concern of the rose growers is that Congress, as you well know, has the constitutional authority to regulate foreign commerce and it has done that in a variety of ways that affect the rose growers.

There are a variety of trade statutes that call for the treatment of fair and unfair trade that has the effect of injuring a domestic industry.

This particular domestic industry, which is extremely creative and innovative in areas such as alternative energy sources, has tried every remedy Congress has provided in its wisdom for domestic industries that find themselves inflicted with large increases in imports. It has been unable to get the relief that it believes it is entitled to, so it comes to Congress seeking to have the same statutory level of tariffs that the executive branch has for the last four trade negotiations permitted the Europeans to keep.

The European community is a much larger community for the consumption of roses than is the United States, and we believe that this particular bill would provide a measure of relief to the domestic industry and let it compete, both with the Colombian and with the European countries that are engaged in unfair trade practices. We are unable to obtain relief in any other form.

Chairman GIBBONS. Could you outline for me what kind of unfair trade practices the Colombians practice?

Mr. STEWART. Roses, Inc. in June of 1981, after having engaged a market research organization in South America, filed an antidumping petition against Colombia alleging margins of dumping, and I forget the exact percentage, somewhere in the neighborhood of 10 to 15 percent is my recollection.

It is one of the few cases in which the agency chose not to initiate an investigation. It did that after ex parte communications with the Colombia Government, and counsel for the Colombia importers.

When that occurred, we took the case to court. The Court of International Trade several weeks ago came down with a decision finding the action on the part of the ITA to have been arbitrary and capricious, clearly in violation of the legislative history and statutory purpose and directing the agency to commence an investigation.

The agency has refused to commence an investigation, and is now in the process of appealing that determination to the Court of Customs and Patent Appeals.

It will be at least another year before that court will have an opportunity to rule on whether or not the Court of International Trades' decision that the ITA should have investigated was the proper one, so we are faced in a situation where imports from Colombia have been growing between 50 and 100 percent per year over the last 5 to 6 years, where they are rapidly eroding the U.S.

market base and causing the membership of our organization to dramatically dwindle.

We are being put off for yet a long future period of time before it will receive any relief.

In that context, we feel we are entitled to come to the custodians of the power to regulate foreign commerce and seek the protection in the form of tariffs that we believe we are entitled to.

Chairman GIBBONS. Are the Colombians selling it for less than they are selling it in their market or selling it less than production costs?

Mr. STEWART. It is a combination of the two. They are not a major market for roses.

It is our belief it is both, based on the market research conducted back in early 1981. In terms of the Israelis and in terms of the Dutch, the Dutch which have by far the largest rose-growing industry in the world, have heavy subsidies in terms of their energy sources.

It has been a great aggravation to the other floricultural industries within Europe.

The EC has been trying for the last 12 to 18 months to get the Netherlands to cease the subsidy it is providing, but to no avail. We brought a suit against the Netherlands and under the ITC's interpretation of what constitutes a reasonable case of material injury, that case was dismissed.

Israelis are subsidizing their rose growers through a variety of programs, and we have been successful to a limited extent in that area against the Israeli roses.

They are the three major sources of roses coming into the United States at this time.

Chairman GIBBONS. The duty, you have dumping and countervailing types of actions?

Mr. STEWART. Correct, and in the European Community, they have a difference in rates, but they also, it is our understanding, during the peak growing season in Europe do not permit non-EC grown flowers into the market, and so during those periods of time which also, of course, correspond with periods of time when there is peak capacity here in the United States, countries such as Colombia have no place else in which to direct their rose production.

Mr. FRENZEL. Mr. Chairman, I have a request. I ask unanimous consent that the statement of our colleague, Dick Schulze, be put in the record before the previous testimony.

Mr. Schulze is one of the cosponsors, and I make the same request for our colleague Mr. Panetta, if he has such statement.

Chairman GIBBONS. Without objection.

I have no further questions. I think I understand the problem.

Mr. KRONE. Thank you, Mr. Chairman.

[The following was subsequently received:]

ADDITIONAL INFORMATION REQUESTED BY HON. RICHARD T. SCHULZE FROM MR. JAMES C. KRONE, EXECUTIVE VICE PRESIDENT OF ROSES, INC.

Question 1. Can Roses, Incorporated show how their members have been affected by imports during the last five years? Also, have any growers been required to cease operation or shift to other crops?

Answer. I have attached a table which show the fate of growers of the four major cut flower crops.

As you can see from this table, all cut flower growers have declined in numbers rather seriously. The data for this table was taken from U.S. Department of Agriculture materials.

Our Roses, Inc. membership records indicate that we have lost 66 grower members since January 1976. From my own personal knowledge and these records, I would estimate that 47 of these firms have entirely gone out of business, or are no longer growing roses. The remaining 19 growers have indicated that "cash flow" financial problems resulted in the termination of their membership in our association.

I would also like to point out that since January 1982 alone, we have lost 12 members. To date our biggest membership loss year during the past five year period was in 1981 when we lost 14 members. It can be accurately estimated that due to our heavy losses just in the past six months, membership termination in Roses, Inc. in 1982 will probably far exceed the 1981 figure.

It has been suggested that the reason for these terminations has been that rose growers have shifted from growing roses to growing other crops or that they have sold their businesses because of high real estate values. If you would look at the table once again, you will see that all four crops show a decline in the number of growers during the 1972-1981 period. This information clearly indicates that rose growers are not shifting to other cut flower crops.

Another problem related to the affects of imports on rose growers and the possible shifting to other crops is the expense of converting a cut-flower greenhouse to pot plant production. As earlier pressures on the carnation and pompon growers have already forced growers from these crops into the soil or container areas, growers have realized that there are very few related areas for them to turn.

Our sources indicate that there have been instances where greenhouses have been torn down and the land sold, and at times where the grower has made a profit. But, for a family that has earned its living in the greenhouse trade on this land for a number of generations, it is unlikely that they sold the business under advantageous and profitable circumstances. Likewise, the proceeds derived from the sale probably would not provide for the continuation of the family name and sufficient income for future generations. If this were the case, I would have anticipated that these growers would have moved to less expensive areas and rebuilt their businesses. However, this has not occurred.

As I review the membership losses of Roses, Inc., one of the most tragic results is that these losses have been primarily small growers who have had to terminate their operations.

Currently, our average sized member grower has a production level of about 80,000 rose plants. Of the grower members who have dropped out of the association since 1976, 55 had a production level less than 80,000 plants. Of these 55 growers, average size was only 28,736 plants. Thus, these growers were very small operations!!!

So, as might be expected, the smaller business is truly unable to cope with these additional pressures in the marketplace and that is why we are asking Congress to address this issue and grant us some relief.

Question 2. In proceedings before other agencies allegations have been raised that during certain periods of the year the domestic industry has been unable to satisfy seasonal requirements. Could you please comment on this generally and specifically in regards to Valentine's and Mother's Day 1982.

Answer. I've spoken to major growers in California, Oregon, Indiana, Kentucky, New York, and Pennsylvania asking if in the last year they have been unable to fulfill their customer rose requirements. They unanimously indicated to me that they were indeed able to supply the amount of roses required by their customers and they if not feel that a real shortage existed even at prime market times such as Valentines' and Mothers' Day.

Question 3. Could you please explain to me what efforts, if any, have been taken by your members to export fresh cut roses to the European market.

Answer. A couple of our larger rose growers in the states of California and Colorado tried unsuccessfully in recent years to export their roses and other cut flowers to the E.C. While the per rose price was conducive to selling the roses in those markets, both the high freight costs and tariff rates made the venture uneconomical because the U.S. product was no longer competitive.

One of our rose grower members from California, Pajaro Valley Greenhouses in Watsonville, explored the possibility of exporting his product to West Germany in January 1981. At that time, the price of a rose was $0.30 each, including freight charges. However, the 24 percent tariff amounted to an additional $0.075 per rose.

This total price of $0.375 per rose turned out to be too high for the market and the American grower lost the sale.

Another grower who attempted to develop the carnation market in the Netherlands reported a similar experience. Because of these barriers he, and other growers observing these efforts, felt that they could not effectively compete in that market under the current market conditions.

However, these growers, as well as a number of others, have indicated a willingness to expand their operations and develop other markets if the conditions were better. But they just can't afford it right now!! It is the general consensus of rose growers that if tariff rates between the U.S. and the E.C. were similar that they would be able to compete in those markets and that they would be willing then to take the additional risks involved.

Question 4. In light of the recently enacted trade agreements at the Tokyo Round, would the enactment of H.R. 6239 violate any international obligations?

Answer. No, it would not. While it's true the United States entered into internatonal agreement regarding tariff rates, sometimes called bindings, the U.S. Congress has the constitutional right to control foreign commerce, including the setting of tariffs. Under Articles 22 of 23 of the GATT, should the United States' position change with respect to a binding or other commitment, the U.S. would be obligated to afford adequate opportunity for consultations and/or potentially provide compensation in the form of reduced tariffs in other products or the withdrawal or similar advantages by the countries concerned.

However, because of the dumping practices believed to be engaged by Colombia and the clear cases of subsidization by the Dutch and Israelis, we believe that the Executive Branch is in a strong position to enter into consultations without having to provide for compensation or being subject to retaliatory measures.

The key is that Congress has the constitutional authority to assist injured domestic industries. Prospects of any compensation needed to be paid by the U.S., in our opinion, are remote or could be limited to areas which would not cause injury to a domestic industry.

Question 5. The point has often been raised that increased tariffs on products or commodities merely result in a penalty to the consumer. How would this legislation which proposes to increase tariffs on fresh cut roses affect U.S. consumers?

Answer. The farmgate receipt for an individual rose is approximately 26-27 cents the markup on a flower is generally very small for the producers with most of the price increase occurring at the retailer and wholesaler level. Currently, it's the retailers and wholesalers who receive the benefit of the difference in tariff rates not the consumer. That is to say, roses from Colombia and other countries are often significantly lower priced to the wholesaler than U.S. produced roses. Despite this price difference, retailers and wholesalers do not pass the lower price on to the consumer. The proposed tariff increase would only bring the price of foreign roses to wholesalers closer to U.S. producer prices. Accordingly, Roses, Inc., believes that there would be no impact from this legislation on consumers purchasing roses.

Question 6. What percentage of rose production in Colombia is exported to the European Community and what efforts, if any, has the E.C. taken to prevent importation of roses or floral production during peak production periods?

Answer. We have tried to obtain figures for total Colombian rose production from U.S. government and Colombian sources in order to make such a comparison, but thus far have been unsuccessful. Apparently these figures either do not exist or are confidential. However, we have been able to obtain figures for Colombian exports to the United States and to the E.C. countries.

According to USDA statistics, Colombia exported 59.03 million stems to the United States in 1981 and 36.0 million in 1980. Whereas, during 1980 Colombia only exported 1.07 million stems to the E.C. countries, according to European Commission figures. The E.C. stem figures for 1981 are only current to the 1st quarter. During that Jan.-March, 1981 period, Colombia exported a total of 484,000 rose stems to the E.C. Whereas during that same period a total of 14,770,498 roses were exported to the United States.

The U.S. quarterly figures indicate that the greatest amount of exports from Colombia occurred during the first quarter. If one were to apply this fact to the E.C. countries then we could estimate that the total exports to that group would not exceed four times the quarterly figure, or 1.98 million blooms This would indicate a very substantial difference of exports to the E.C. market as compared to the U.S. market—1.97 million blooms exported to the E.C. countries versus 59.03 million blooms exported to the U.S. Clearly the U.S. is the market for Colombian roses and not the E.C. countries and the huge difference in the amounts would indicate that roses are being dumped in the U.S. rather than being sold in the E.C.

In regard to the second part of your question, there is no indication that the European Community is taking efforts to prevent the importation of roses or floral products during peak production. This is probably due to the fact that the amounts exported there are quite insignificant expecially when compared to the U.S. market.

Question 7. Finally, it appears that the rose industry has taken considerable effort to obtain relief from imports through traditional actions in Washington, and has been frustrated by the lack of results. What other efforts have been made by the industry to become more competitive and to hold the market share?

Answer. There have been two specific programs running to help the U.S. rose grower retain his market. The first comes in the form of research which has been aimed at helping growers increase productivity from their greenhouses and cut costs. The second is a program where we are attempting to increase total market size through promotions so that both domestic and imported roses are sold. Over half of our dues income is spent in support of this program.

Both programs have been quite successful, but in the face of the large increases in numbers of roses sent to the U.S. from abroad, neither have been able to keep up and prevent the erosion of the U.S. growers' market share.

The research programs have been aimed at rose plant nutrition and management for maximum yield. Researchers have also worked effectively on rose insect and disease problems so that we can offer the best quality rose at the time when the market needs the blooms.

Energy conservation research has shown us how to cut down on fuel consumption in heating the greenhouses. Some growers estimate that heating costs can run as high as 19 percent of their total operating expenses so conservation in this area is most significant.

In recent correspondence, the operators of Pikes Peak Greenhouses in Colorado Springs, Colorado reported that they had increased their productivity in one of their rose operations by 10 percent and had fuel usage by over 40 percent.

Looking at our promotional efforts per capita consumption from 1977 to 1981, the period of our current efforts, we have seen an increase from 1.95 to 2.14 per person, an increase of about 9 percent.

However, in 1981, offshore growers shipped in 27 million additional roses over 1980, an increase of over 50 percent!!! In 1982, we expect a minimum of 30 million additional roses to be shipped in, and at these rates of increase our sales efforts just cannot keep pace. Add to this the fact that we are cut off from using the E.E.C. markets due to their high tariffs, as well as non/tariff barriers we confront in other countries, and we certainly cannot expect to expand our markets through imports.

For an industry of the size and resources that we have, the rose growers of the United States have done a superb job in these areas. The problem, which is beyond our control, is that we just cannot cope with the subsidized and "dumped" roses.

It is of concern to us and our members that future growers making such applications may have a more difficult time in illustrating their injury due to the termination of the USDA annual publication, "Floral Culture Crops," which surveys domestic rose production and sales. This report is being terminated because of the Administration's budget cuts. Currently it is the only free government resource available which provides data concerning domestic production of all flowers and plants including roses.

Although rose growers do not receive similar subsidies as is provided by these countries, domestic rose growers do receive government assistance through federally sponsored programs, such as research, farm advisory and floral culture specialist programs which are being adversely affected by the budget cuts. Therefore, many of the existing programs which assist our members are now being terminated.

TABLE 1

CROP AND YEAR

	Pompons			Standard Carnations			Roses			Standard Mums		
	72	76	81	72	76	81	72	76	81	72	76	81
Number of Growers	1912	1126	894	1357	539	331	317	230	222	1955	1029	724
Farm Gate Value* (Million $)	29.5	34.1	40.0	48.0	45.5	40.9	47.2	74.5	111.6	28.7	29.3	22.7
Blooms Sold (Million Stems--except for pompons which are in 1,000s of bunches)	33.6	35.6	36.7	584.3	517.8	345.7	431.6	422.1	421.5	137.1	140.3	86.5

---

*In actual dollars for the year reported; NOT 1967 real dollars.

NO.	TERMINATION DATE	PLANTS	FIRM/REASON FOR MEMBERSHIP TERMINATION
1	1/26/76	77,916	Samtmann Brothers, Wyndmoor, Pa. - Out of business.
2.	1/26/76	83,000	Sequoia Nursery, Redwood City, CA - Nonpayment of Dues. (NPD)
3.	1/26/76	1,400	Catawba Greenhouses, Port Clinton, Ohio - NPD
4.	3/25/76	53,000	Alphonse C. Sodano, St. Leonards Farms, Newton, Pa., 80 yrs. old; resigned. Sold farm.
5.	6/4/76	120,000	Avansino-Mortensen, San Leandro, CA. - Resigned. Not growing roses (NGR).
6.	6/4/76	86,700	Colorado Roses, Lafayette, Col. - Bankruptcy.
7	8/21/76	28,000	Acorn Greenhouses, St. Paul, MN - NPD
8.	10/21/76	28,000	Podesto-Boschetto, San Leandro, Cal. - Resigned; OUT OF BUSINESS (OB)
9	11/2/76	37,500	James F. Knecht Co., Redwood City, CA - Resigned, business bad.
10	11/9/76	57,000	Hollywood Greenhouses, Woodinville, Wash - OB
11	9/27/76	6,000	Lutz Hilltop Greenhouses, Cincinnati, Oh. - Resigned,NGR
12	3/ 2/76	17,000	Mercer Greenhouses Inc., Fredonia, Pa. - Resigned, NGR
13	9/27/76	3,750	E. W. McLellan, Mt. Eden, CA - Resigned, NGR
14	5/12/76	40,650	Henry Bass Greenhouses, Ft. Washington, Pa.-Out of business
	2/15/77	2,000	Henry Pastorino and Son, San Bruno, CA - NPD
16	6/17/77	10,000	Siebrecht Florist, Inc., Aberdeen, SD - NGR, resigned.
17	10/19/77	91,019	Don Lucas and Son, San Leandro, CA - OB
18	1/16/78	112,500	Clarence Amling Roses Inc., Santa Ana, CA - OB
19	2/23/78	8,585	Kel's Cut Roses, Satellite Beach, FL. - NPD
20	2/23/78	7,500	Weiland Bros. Greenhouses, Prairie View, IL - NPD
21	6/20/78	58,000	Miller Floral Co., Farmington, UT - Sold business.
22	8/15/78	86,831	L. B. Coddington Co., Murray Hill, NJ - NGR (Now a "personal" associate member)
23	11/15/78	30,000	Washington Greenhouses, Washington, NJ - NPD
24	12/1/78	16,000	Jobe Florists Inc., Salem, VA - Resigned
25	1/29/79	20,000	Jansen Bros., Inc., St. Paul, MN - OB
26	5/1/79	16,500	Bryfogle's, Muncy, Pa. - Resigned
27	5/12/79	13,000	Joas Ghses, Hampton, NJ - Resigned; rose ghse. failure.
28	5/14/79	16,000	C. J. Francis & Son, Baltimore, MD - NGR
29	6/15/79	15,000	Bowden Ghses., Lenoir City, TN - Resigned, OB
30	7/1/79	25,540	Smith's Roses, Gasport, NY - Resigned, OB
	7/1/79	26,000	Pixley Ghses, Ft. Collins, CO - Sold to Jordans.
32	8/13/79		Mt. View Ghses., Hickory, NC - NPD, NGR
33	8/22/79	44,640	Anthony Euser Ghses., Broomfield, CO - NPD

(NPD - Nonpayment of Dues   OB - Out of Business   NGR - Not Growing Roses)

NO.	TERMINATION DATE	PLANTS	FIRM/REASON FOR MEMBERSHIP TERMINATION
34	5/28/80	30,052	Forest H. Meek Florist, New Castle, IN. - Sold business
35	6/26/80	14,000	R.J.C. Corporation, Charles City, IA - NGR
36	6/26/80	34,800	G. VanBochove & Brothers, Kalamazoo, MI, - NGR
37	8/20/80	57,070	Rod McLellan Co., So. San Francisco, CA - NGR
38	11/10/80	10,000	J. W. Dudley & Sons Co., Parkersburg, WV - Resigned
39	11/6/80	3,000	Key West Roses, Key West, FL - NGR
40	12/12/80	219,500	Woodstock Roses, Woodstock, IL - NPD
41	3/15/81	90,000	Barbic Rose Growers, Spring Valley Ca. - OB
42	3/21/81	30,000	Smoke Bros. Mt. Clemens, MI - Resigned
43	5/26/81	135,000	Niedens Hillside Floral, Encinitas, CA - Resigned, NGR
44	7/1/81	200,000	Mt. Clemens Rose Gardens, Mt. Clemens, MI - NPD
45	7/6/81	59,340	Peirce Bros., S. Sudbury, Mass. - NPD - Business reasons
46	7/6/81	16,800	Siebrecht Floral Co., Winona, MN - Resigned, OB
47	7/6/81	45,600	John J. Holberg Ghses., Englewood, CO. - NPD
48	7/10/81	60,000	Stone's Roses, Bayport, NY - Resigned
49	7/10/81	25,000	Veldkamps Flowers, Golden, CO - NGR
50	7/16/81	18,000	Pickrell's Florist Inc., Elkhart, IN. - NGR
	7/17/81	26,000	Evers & Elfner, Cincinnati, OH - OB
52	10/5/81	45,500	Rosedale Ghses, Inc., Spokane, WA - Resgined
53	10/27/81	31,400	Everblooms Under Glass, Eden Prairie, MN - Bankruptcy
54	10/26/81	18,000	Harold's Roses, Mt. Clemens, MI - Resigned
55	1/15/82	24,000	E. A. Neuman Florist, Inc., Richmond, Ind. - OB
56	1/14/82	53,182	John Dieckmann & Sons Co., Wheeling, WV - NGR
57	2/18/82	1,400	Wm. R. Collier, Riverside, CA - NPD
58	"	60,000	Kimura Brothers, Watsonville, CA - NPD
59	"	100,000	Vanni Nursery Inc., Watsonville, CA - Resigned
60	"	38,000	Albert W. Berlin Co., Villa Park, Il - NPD
61	"	55,000	Washington Nursery Co., San Leandro, CA - NPD
62	"	25,000	Newport Flowers, Cedar Rapids, IA - NPD
63	"	23,184	Gude Brothers, Laurel, Md - NGR. Now associate
64	"	23,000	Carlson Ghses, Eden Prairie, MN - NPD
65	"	11,000	Waterford Floral Co., Waterford, WI - NPD
66	2/27/82	1,150	T & T Nursery - Plant Peddler, Fielding, UT - NPD

Chairman GIBBONS. Our next witness is from the Florists' Transworld Delivery Association.

STATEMENT OF JIMMY WILLIAMS, MEMBER OF FLORISTS' TRANSWORLD DELIVERY ASSOCIATION, TAMPA, FLA., PRESENTED BY GORDON L. SMITH, WASHINGTON REPRESENTATIVE, FTDA

Mr. SMITH. Thank you, sir. It is the duty of the last witness of the day to be brief, and I will try to do that.

FTD is sufficiently well known so that we can skip any descriptive information about the organization.

I would appreciate it if my statement could be placed in the record.

Chairman GIBBONS. It certainly will be.

Mr. SMITH. I am actually speaking on behalf of Mr. Jimmy Williams of Tampa, who is one of our leading members in Florida. He was unable to come on short notice today.

Chairman GIBBONS. I received a message from him. I know his position.

Mr. SMITH. In 1977, FTD's board of directors adopted a policy calling for the availability in the marketplace of a quality product in adequate quantities at reasonable prices to retailers and ultimately to consumers.

It is, after all, the consumer who pays the price of trade restrictions in the long run. This policy has been affirmed on about five occasions by differing FTD boards.

In 1979, Roses, Inc., the trade association of domestic rose growers filed an escape clause petition with the International Trade Commission seeking higher tariffs or quotas. This was rejected unanimously.

They filed a countervailing duty case against the Dutch growers and Israeli growers. The Israeli claim did not come up before the ITC on the economic injury aspects, but the case against the Dutch was dismissed by the ITC, and I believe, that was unanimous.

The ITA, recently, in the last couple of years refused to accept a petition which was ultimately restored, as Mr. Krone said on appeal. This reinstatement is subject to possible further appeal by ITA.

The lifeline of the retail florists, the ability to be a retail florist, lies in the availability of flowers. FTD continues to be opposed to efforts to restrict imports directly or indirectly and urges the subcommittee as strongly as it can to reject H.R.6239 as being mischievious and intended to obtain from Congress restrictions denied by an independent agency of the U.S. Government as being unnecessary and inappropriate.

The other point I would like to make is that it is our belief that this bill would be in contravention of U.S. agreements under various international trade agreements, including the GATT.

In effect the bill seeks to impose reciprocity on a commodity basis, a concept for which there appears to be no basis in international trade law or regulation.

With that, I would be glad to answer any questions I can, and I thank you for taking our statement in the record.

[The prepared statement follows:]

STATEMENT OF FLORISTS' TRANSWORLD DELIVERY ASSOCIATION

Mr. Chairman and Members of the Committee, I am Gordon L. Smith, vice president of Hill and Knowlton, Inc. For the past 23 years I have been the Washington representative of Florists' Transworld Delivery Association of Southfield, Michigan. I appear here on behalf of F.T.D. and one of its leading members, Mr. Jimmy Williams of Larson-Williams Florist, 2801 Florida Avenue, Tampa, Florida.

Mr. Williams was unable to change long standing plans in order to be here today. He has asked me to say he regrets sincerely that he cannot be here in person to speak for F.T.D. in opposition to H.R. 6239. He has authorized me to read a brief statement on behalf of F.T.D. and himself.

For the record, F.T.D. is a non-profit, member-owned cooperative of nearly 19,000 retail florist members in the U.S., all of them independent small businessmen. Founded in 1910, F.T.D. is the oldest and largest intercity florist delivery service providing clearinghouse, marketing, research, educational and communications services to its members. This statement generally pertains to the portion of ornamental crop production and distribution that is identified as commercial floriculture, and in particular to cut roses imported into the U.S.

In 1979, Roses, Inc., a trade association of domestic rose growers, filed an escape clause petition with the International Trade Commission seeking higher tariffs or quotas, or both, with respect to roses imported into the U.S. from Colombia, Holland and other countries.

The petition alleged serious injury or threat of serious injury. In 1980, this petition was rejected unanimously by the commission as being without merit. Testimony of F.T.D. and other spokesmen for the retail segment of the industry demonstrated conclusively that the scarcity of roses that would have resulted from import restrictions on roses would only have worked a substantial hardship in terms of price and availability on retailers and consumers of roses. It is important to remember in this context that it is the consumer who pays for trade restrictions in the long run. That testimony further demonstrated that, far from hindering domestic producers, imports of roses actually serve a market sector by filling a gap between domestic availability and demand.

In 1977, F.T.D.'s board of directors adopted a policy calling for the availability in the marketplace of a quality product, in adequate quantities, at reasonable prices to retailers and utimately to consumers. For this reason F.T.D. is opposed to trade restrictions, however applied, on the importation of fresh cut roses (or other cut flowers) into the U.S. This position has been affirmed on five occasions by different F.T.D. boards of directors.

The lifeline of the retail florist—his very ability to be a retail florist—lies in the availability of flowers. For this fundamental reason, F.T.D. continues to be opposed to efforts to restrict imports, directly or indirectly, and urges the subcommittee as strongly as it can to reject H.R. 6239 as being mischievous and intended to obtain from the Congress restrictions denied by an independent agency of the U.S. government as being unnecessary and inappropriate. Commercial floriculture's products and services are valued at more than $1.5 billion at the wholesale level and approximately $6 billion at the retail level. These figures are calculated to increase sharply by 1990. The reason is to be found in the accelerating public demand for our goods and services. Roses are only a portion of these totals, but an important one, when measured in terms of consumer acceptance and preference.

A matter of primary concern about H.R. 6239 is the fact that this bill would be in violation of international agreements of the U.S., specifically the General Agreement on Tariffs and Trade. This in our judgment lies in the fact that the bill seeks to exact "reciprocity" on a commodity basis, a concept for which there appears to be no basis in international trade law and regulation.

Much of the statistical data presented at the International Trade Commission hearing in 1980 is still relevant and we would be glad to update this information and submit it for the record should the subcommittee wish us to do so. Suffice it to say at this time that economic factors have not changed so as to warrant the proposed increase in tariffs on roses from the present eight percent to the 24 percent that prevails in the European community at certain times of the year. The bill is no more than an effort to persuade the congress to legislate specific commodity tariff rates, a practice Congress gave up many years ago. Further, the effort to predicate U.S. rates on those levied on similar imports by a foreign entity with which the U.S. has no export trade in the affected commodity seems spurious in concept.

We thank this committee for the opportunity to state our views on H.R. 6239, and urge that it be rejected. I would be glad to try to answer any questions you may have or furnish further information for the record of this hearing.

Chairman GIBBONS. Do you have any knowledge of the compliance dumping, or the Israelis or the Dutch subsidizing?

Mr. SMITH. I do not.

Mr. FRENZEL. Can you tell me something about the costs of the products you buy? I assume you would rather buy domestic roses when they are available?

Mr. SMITH. That is correct. FTD members are always anxious to buy domestically if they can. They often get a better product because it is grown closer to the point where it is going to be used, and it is in storage for a shorter period of time.

The quality is frequently there when it starts in a far off place like Holland, but there is some natural degregation in the product because of its limited shelf life in the chain of distribution in the United States.

However, it is pretty well shown and documented before the International Trade Commission that domestic industry does not fully supply the domestic market. There is a demand which imports have filled, and in fact imports have probably expanded the market for roses on a national basis.

Mr. FRENZEL. Is that a seasonal problem, or is it year round?

Mr. SMITH. Roses are seasonal in production certainly, but it is an occasional problem, in the sense that there are certain times of the year when red roses are so much in demand that the grower can get almost any price for them, like Valentine's Day. There is an uneven market cycle.

Mr. FRENZEL. You feel you have to have a foreign source to protect you in these kinds of situations?

Mr. SMITH. Very definitely.

Mr. FRENZEL. Are the foreign roses cheaper?

Mr. SMITH. Sometimes not. We showed at the International Trade Commission on that very point that we were paying more for imported roses in the United States in some cases than the prices at which they were actually available from some domestic source at the same time. So the foreign rose is not necessarily a cheaper rose.

The Dutch in particular are very well known for high quality production.

Mr. FRENZEL. Thank you very much.

Chairman GIBBONS. I was in Colombia the other day. They are not affected by seasons. They can pick that altitude and pick whatever seasons they want.

Mr. SMITH. Fifteen years ago there were no imports of this product at all, not roses alone but other cut flowers.

All production was domestic. Colombia was particularly wellsuited for the production of flowers. They discovered they could diversify their agricultural exports in that economy from coffee and one or two other things by growing roses, but they have almost ideal growing conditions, such as uniform hours of light and darkness, temperature fluctuating in a very narrow range and so on. They can grow under favorable conditions.

Chairman **Gibbons**. You need a warm climate, you go further down the mountain.

They have weather like that 365 days a year.

Mr. **Smith**. Yes.

Mr. **Frenzel**. Unfortunately we caught them with too many good things like marihuana.

Mr. **Smith**. Yes. In the last 10 years I have only heard of one or two instances when there was anything like what we would call a freeze that actually damaged flowers in production, so they do have ideal conditions down there, no doubt. In Holland, it is different. It is a high-cost production, everything in greenhouses.

Chairman **Gibbons**. Well, thank you very much.

This concludes our hearing on miscellaneous tariff and trade bills, as we had previously announced.

The hearing record will remain open until the close of business on June 4 for the receipt of any further information or statements for inclusion in the record.

The meeting is adjourned.

[Whereupon, at 7 p.m., the hearing was adjourned.]

APPENDIX

Agency reports and written comments received in time for publication on bills considered at the hearings follow. The material is arranged numerically by House bill number.

H.R. 3649

To correct an anomaly in the tariff treatment of ethyl and methyl parathion

DEPARTMENT OF STATE

Your letter of July 23 requested the views and comments of the Department of State on H.R. 3649, a bill to correct an anomaly in the tariff treatment of ethyl and methyl parathion.

The Department of State finds no compelling foreign policy reasons to support or oppose the bill. On the technical aspects of the bill, the Department of State defers to the International Trade Commission and the Bureau of Customs.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 3649, a bill: "To correct an anomaly in the tariff treatment of ethyl and methyl parathion."

If enacted, H.R. 3649 would incorporate ethyl and methyl parathion (o,o-Diethyl-o-(4-nitrophenyl)-phosphorothioate and o-o Dimethyl-o(4-nitrophenyl)-phosphorothioate) in item 408.24 of the Tariff Schedules of the United States (TSUS). These products are currently classified for duty purposes in item 408.28. This tariff reclassification would result in an immediate decrease in the column-1 rate from 18.4 percent ad valorem to 11.2 percent ad valorem, a decrease in the LDDC-column rate from 12.5 percent to 6.9 percent ad valorem, and a decrease in the column-2 rate from 7 cents per pound plus 64.5 percent ad valorem to 7 cents per pound plus 41 percent ad valore. Future staged reductions in the tariff rate on ethyl and methyl parathion would follow the schedule established for 408.24, resulting in a final column-1 rate on January 1, 1987 of 6.9 percent ad valorem rather than the 12.5 percent ad valorem rate applicable to TSUS 408.28.

The Department of Commerce is opposed to enactment of H.R. 3649.

The Department notes that Congress supported the Administration's conversion of specific rates of duty to ad valorem equivalents during the Multilateral Trade Negotiations (MTN). The purpose of conversion was to ensure that the tariff protection afforded domestic industries formerly subject to specific rates of duty and whose products compete with imports would not be eroded as a result of inflation. In addition, the Administration sought to eliminate the American Selling Price (ASP) system, yet afford to domestic producers of products under the ASP system substantially equivalent protection following elimination of the ASP valuation practices.

ASP products were classified as either competitive (facing import competition) or noncompetitive (not facing import competition) during the base year 1976. To carry out the conversion the U.S. International Trade Commission (USITC) calculated converted rates of duty based on historical trade for a number of products subject to specific rates. The USITC published in the Federal Register a schedule of converted rates and held public hearings on their calculations. Comments received by the USITC were used by the Administration to determine how final conversions were to be made and whether tariff concessions would be made on ASP products.

The Administration recognized that the conversion process necessarily would involve balancing increases and decreases, of varying degrees, in the equivalent converted rates of individual products where it was necessary to combine various chemical compounds in "basket" categories. Nevertheless, the conversion system, on balance, resulted in substantially equivalent protection of the domestic industry, while allowing negotiated reductions in the duties on these products over time. The United States paid compensation to other countries in the MTN in order to make changes which may have increased rates on an individual item as a result of conversion.

It was on this basis that Congress approved the conversion mechanism and final rates. The Department believes that enactment of H.R. 3649 would set a dangerous precedent by opening up the conversion process.

Precise import statistics on ethyl and methyl parathion are not available since these products are included in a basket category for statistical purposes. However, based on estimates, the revenue loss resulting from enactment of H.R. 3649 would be approximately $260,000 in 1982 and $314,000 in 1983.

Enactment of H.R. 3649 woud have no impact on the administrative costs of the Department.

We have been advised by the Office of Management and Budget that they have no objection to the submission of our letter to the Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 3649, if enacted, would amend item 408.24 of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) by inserting "o,o-Diethyl-o-(4-nitrophenyl)-phosphorothioate" and "o,o-Dimethyl-o-(4-nitrophenyl)-phosphorothioate"[1] in the appropriate sequence. This would have the effect of changing the classification of these products from TSUS item 408.28 to TSUS item 408.24 and would result in a reduction of the applicable column 1 rate of duty[2] from 19.6 percent ad valorem to 12 percent ad valorem. The column 2 rate of duty[3] for these products would be reduced from 7 cents per pound plus 64.5 percent ad valorem to 7 cents per pound plus 41 percent ad valorem.

TSUS item 408.24 was created during the recent Multilateral Trade Negotiations (MTN) to give only certain "noncompetitive"[4] insecticides a lower duty rate. The remaining insecticides classified as "competitive" by Customs, including these two chemicals, were placed in a residual "basket" category (TSUS item 408.28) with a duty rate based on the average of the ad valorem equivalents (AVE's) for the chemicals classified in this "basket" category based on 1976 import data. The current classification of these two insecticides was intended to give the domestic producer of these products protection from imports equivalent to that conferred by the discontinued American selling price (ASP) method of valuation.[5]

These two insecticides have been produced in the United States for the past several years. At the present time, methyl and ethyl parathion are domestically produced by only one firm.

DESCRIPTION AND USES

Methyl and ethyl parathion are organophosphorus insecticides used to control numerous insect species on a variety of crops. Methyl parathion is used primarily on cotton to control the boll weevil. Ethyl parathion is used to control insects on a variety of fruits and nuts, alfalfa and other field crops, and cotton.

---

[1] The common names for these two insecticides are ethyl parathion and methyl parathion, respectively.

[2] The rates of duty in rate of duty column numbered 1 are Most-Favored Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

[3] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[4] Before the Trade Agreements Act of 1979, imported benzenoid products that were competitive with similar domestic products because they accomplish results substantially equal to those accomplished by the similar domestic product when used in substantially the same manner were subject to a special basis of valuation for customs purposes known as the "American selling price" (ASP). If noncompetitive, the benzenoid products were valued for customs purposes on the basis of the United States value. The essential difference between these two values was that the American selling price was based on the wholesale price in the United States of the competitive domestic product, whereas United Statres value was based on the wholesale price in the United States of the imported product less transportation and most of the selling expenses.

[5] See section 223, the Trade Agreements Act of 1979, 93 Stat. 204.

In the past several years, domestic use of these insecticides, particularly methyl parathion, has grown owing to increased Government restrictions on chlorinated insecticides (used on similar crops; e.g., cotton) and to increased insect resistance to certain chlorinated insecticides. Other insecticides are also being used on cotton to control insects (e.g., synthetic pyrethroids); however, methyl parathion is still the largest volume insecticide used on cotton because of its lower cost and greater effectiveness compared with other insecticides.

TARIFF TREATMENT

Methyl and ethyl parathion are classified in the residual "basket" category for insecticides, not artificially mixed, which are provided for in the Chemical Appendix to the Tariff Schedules—item 408.28. Articles entered under TSUS item 408.28 are presently dutiable at a column 1 (MFN) rate of 19.6 percent ad valorem, an LDDC rate of 12.5 percent ad valorem,[6] and a column 2 rate of 7 cents per pound plus 64.5 percent ad valorem.

This bill would change the classification of these two insecticides to TSUS item 408.24 which provides for specifically enumerated insecticides, not artificially mixed. This item is presently dutiable at a column 1 (MFN) rate of 12 percent ad valorem, an LDDC rate of 6.9 percent ad valorem, and a column 2 rate of 7 cents per pound plus 41 percent ad valorem.

The column 1 rates of duty for these items will be reduced in annual stages through January 1, 1987, as shown in the following tabulation:

[In percent]

TSUS item	Rates of duty effective with respect to articles entered on and after Jan. 1—					
	1982	1983	1984	1985	1986	1987
408.24	11.2	10.3	9.5	8.6	7.6	6.9
408.28	18.4	17.3	16.1	14.9	13.7	12.5

Methyl and ethyl parathion are currently eligible for duty-free entry under the Generalized System of Preferences[7] (GSP) and would remain eligible if reclassified under TSUS item 408.24.

STRUCTURE OF THE DOMESTIC INDUSTRY

At the present time, methyl and ethyl parathion are produced only by Monsanto Co. at their plant in Anniston, Alabama, which employs about 300 people. In 1980, Kerr-McGee Chemical Corporation, the only other domestic producer of methyl parathion, stopped production because of rising production costs. During 1976–80, U.S. production data for these two insecticides were reported to the Commission; however, because of the limited number of U.S. producers, publication of such data could reveal business confidential information. An exception was the 1977 production[8] of methyl parathion, which was 39.7 million pounds, valued at $40 million.

---

[6] The rates of duty in rate of duty column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are applicable to products of the least developed developing countries designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 applies.

[7] The GSP under title V of the Trade Act of 1974 provides duty-free treatment of specified eligible articles imported directly from designating beneficiary development countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985, unless modified by the President or terminated.

[8] Based on 100 percent active ingredient.

U.S. IMPORTS

In 1980, imports of methyl and ethyl parathion, by quantity,[9] were 908,600 pounds and 37,400 pounds, respectively.[10] Prior to 1980, only imports of ethyl parathion, amounting to 22.046 pounds in 1976, were identified by the Commission during 1976–79. These imports of ethyl parathion were classified as "competitive" by Customs and valued under ASP. If methyl parathion had been imported during this period, this product would also have been classified as "competitive" by Customs owing to the number of domestic producers.

The names of the major importers of these two insecticides are not available; however, the major domestic distributors are as follows:

Chemical	Distributor [1]	Location [1]
Methyl parathion	Helm Houston Chemical Corp.	Houston, Tex.
	Kerr-McGee Chemical Corp.	Oklahoma City, Okla.
	Monsanto Co.	St. Louis, Mo.
	Trans Chemic Industries	New York, N.Y.
Ethyl parathion	Lobel Chemical Corp.	New York, N.Y.
	Trans Chemic Industries	New York, N.Y.
	Monsanto Co.	St. Louis, Mo.

[1] Commission sources and Chemical Marketing Reporter, 1980–81 OPD Chemical Buyers Directory, pp. 627 and 688.

Imports of these two insecticides in 1980 were from Denmark. However, according to industry sources, the Federal Republic of Germany is also a major source of imports for these products. The Commission staff did not find any imports of these products from column 2 sources in 1980.

U.S. EXPORTS

In 1976 and 1977, combined exports of methyl and ethyl parathion, except preparations, were valued at $5.2 million and $13.2 million, respectively. During 1978–80, export data for ethyl parathion were not available because this product was classified in a residual "basket" category owing to a change in the export schedule (Schedule B) nomenclature. However, based on discussions with industry representatives, it is estimated that exports of ethyl parathion in 1979 approximated $1.8 million. Export data for methyl parathion, unmixed and mixed, were available during this period and during 1978–80 were as follows:

[Dollar value in thousands]

Year	Unmixed	Mixed
1978	8,039	6,651
1979	11,314	7,504
1980	10,085	5,354

The names of the major exporters of these products are not available; however, the previously cited major distributors were probably the major exporters according to an industry source.

APPARENT U.S. CONSUMPTION

Data for domestic consumption of these products are not available; however, industry sources indicated that domestic consumption is approximately the same as domestic production since imports and exports are relatively insignificant when compared to domestic production.

---

[9] Value of imports is not available.

[10] Source: U.S. International Trade Commission, Imports of Benzenoid Chemicals and products, 1980.

POTENTIAL ANNUAL LOSS OF REVENUE

Based on Commission data and information provided by some domestic distributors of these two insecticides, the following are estimated revenue losses for a 3-year period from 1981 through 1983.

Year	Estimated revenue loss [1]
1981	$198,000
1982	261,000
1983	314,000

[1] Based on an average estimated value for methyl and ethyl parathion of $1.30 per pound in 1981, $1.45 per pound in 1982, and $1.60 per pound in 1983. Combined imports of these two insecticides are estimated at 2 million pounds in 1981, 2.5 million pounds in 1982, and 2.8 million pounds in 1983.

TECHNICAL COMMENTS

The proposed article description should be amended to reflect the proper name of these chemicals; i.e., "0,0-diethly-0-(4-nitrophenyl)phosphorothioate" and "0-0-dimethyl-0-(4-nitrophenyl)phosphorothioate."

The comma after "warehouse" on line 1 of page 2 of the bill should be deleted.

DEPARTMENT OF AGRICULTURE

This is in response to your request for this Department's views and comments on H.R. 3649, a bill "To correct an anomaly in the tariff treatment of ethyl and methyl parathion." This Department opposes the proposed bill.

H.R. 3649 would amend items 408.28 and 408.24 of the Tariff Schedules of the United States by removing ethyl and methyl parathion from item 408.28 and inserting them in item 408.24, thereby decreasing the duty on both products.

Because imports of these chemicals are competitive with U.S. production and have grown significantly in recent years despite existing duties, the decrease in duty will be detrimental to U.S. producers of ethyl and methyl parathion. In addition, we note that the rationale of the bill is to correct an inadvertent increase in the customs duty on these chemicals resulting from the conversion from American Selling Price based duties to ad valorem duties. We believe that the subject chemicals were properly classified under TSUS 408.28 and that the duty was intentional and should be maintained.

Enactment of the bill would involve additional costs to the government in the form of lost tariff revenue. We defer to the International Trade Commission for an assessment of these costs.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

STATEMENT OF HON. DAVID R. BOWEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. Chairman, thank you for permitting me to testify before the Ways and Means Subcommittee on Trade on behalf of H.R. 3649, a bill to correct an anomaly in the tariff treatment of ethyl and methyl parathion, introduced by my colleague, the Honorable Harold C. Hollenbeck, and the subject of today's hearings.

Mr. Chairman, in a letter to you in August of 1981, I urged the Subcommittee on Trade to hold hearings on H.R. 3849, and I am pleased that the Subcommittee is addressing the issue today.

Ethyl and methyl parathion are the main ingredients in pesticides used extensively in U.S. agriculture. As Chairman of the Subcommittee on Cotton, Rice, and Sugar of the Committee on Agriculture, and representing a district which is largely agricultural, I believe I speak for a great many farmers in America.

The key issue at hand is a competitive source of ethyl and methyl parathion. After Kerr-McGee Chemical Company ceased production of methyl parathion in 1980, there remained only one domestic producer of methyl parathion. The Cheminova Company of Denmark had previously supplied the market with this product from time to time, and it would have continued to offer advantageous pricing but for the sharp increase in import duty that took effect in July of 1980.

Prior to July 1, 1980, methyl parathion and ethyl parathion were classified under U.S. Tariff Schedules item 405.15. This tariff item provided for "pesticides" and embraced a statistical subdivision for "insecticides." The compound rate of duty applicable to "pesticides" (and "insecticides") classified under the Tariff Schedules of the United States (TSUS) item 405.15 was 1.7 cents per pound plus 12.5 percent ad valorem.

However, effective July 1, 1980, and pursuant to Section 223(a) of the Trade Agreement Act of 1979, TSUS item 405.15 was eliminated and replaced with two "new" items: 408.24 and 408.28. The new rate applicable to TSUS item 408.24 (which covers certain insecticides listed by name and does not include methyl parathion and ethyl parathion) is 1.7 cents per pound plus 12.8 percent ad valorem; the new rate applicable to item 408.28 (which covers all other insecticides and includes methyl parathion and ethyl parathion) is 1.7 cents per pound plus 20 percent ad valorem.

As a result of these changes, methyl parathion and ethyl parathion are now subject to a duty almost 30 percent higher than the amount collected prior to July 1, 1980. Yet this is a result never really intended.

I would call to your attention pages 630 and 631 of the hearing record before this Subcommittee on June 26 and July 21, 1980. The concluding Section IV states in no uncertain terms: "The error or inadvertence in the determination of the equivalent rate of duty for methyl and ethyl parathion is clearly an oversight of which this Committee should take cognizance."

I believe that you will agree with me that it would be in the best interest of agriculture for farmers to have more than one source of these pesticides—at the lowest competitive price. Consumers also would benefit. In order to correct what is obviously an error, I urge the Subcommittee to favorably report out H.R. 3649.

Thank you again for allowing me this opportunity to address the Subcommittee on Trade.

CHEMCO ASSOCIATION,
San Francisco, Calif., May 27, 1982.

Mr. JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means,
U.S. House of Representatives, Washington, D.C.

DEAR MR. SALMON: As a company intimately involved in the marketing of agricultural chemicals we would like to express our support of H.R. 3649. It is to everyone's benefit, the agricultural industry as well as the consumer, that there be at least two sources of supply of such an important pesticide. We understand that with the passage of Congressman Hollenbeck's bill that this in effect would restore and correct the duties of the subject parathions to the level that was originally intended under Section 223(d) of the Trade Agreements Act of 1979. We thus support this bill and its inherent principle of increased competition with resulting lower prices for all.

Sincerely yours,

MORGAN C. PICKERING, *President.*

OCCIDENTAL CHEMICAL CO.,
Lathrop, Calif., June 2, 1982.

Mr. JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means,
U.S. House of Representatives, Washington, D.C.

DEAR MR. SALMON: Being a large purchaser of raw materials used to formulate agricultural and professional turf pesticides, we naturally want the maximum amount of sourcing that is available, domestic and foreign. Two of the raw materials used to formulate our products are methyl and ethyl parathion. Currently, we have only one domestic source at our disposal with no new domestic producers known to be anticipating entering this market.

Recently, the bill H.R. 3649 introduced by Congressman Harold Hollenbeck has been brought to our attention, which we understand can or will correct an anomaly in the import duty currently being assessed on methyl and ethyl parathion.

Although, we embrace the philosophy of supporting the use of American made products, we also want to express our support of the American farmer in producing food and fiber at the lowest possible cost. In order that the farmer can accomplish this task, they need the most advantageous, lowest cost from their sources of fertilizer, chemicals, and machinery. We, being a source of chemicals in the form of pesticides, also require the lowest cost which we feel should be determined through our free enterprize system in the form of multiple sourcing for our raw materials.

In conclusion, our reason for writing to you is to offer our support, and strongly urge passage of H.R. 3649 in order that, competitive market conditions for American farmers and consumers alike can be maintained.

Respectfully submitted.

JOHN NEAL,
Buyer, Raw Materials and Packaging.

H.R. 4002

To amend the Tariff Schedules of the United States to provide for a lower rate of duty for certain fish netting and fish nets

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 4002, if enacted, would provide for a lower rate of duty for cetain fish netting and fishing nets of types provided for in item 355.45, subpart C, part 4, schedule 3, of the Tariff Schedules of the United States (TSUS), by striking out the 1981 rate of duty prescribed in rate column numbered one ("25¢ per 1b. + 32.5 percent ad val.") and inserting in lieu thereof "17 percent ad val." [1] This latter rate would be equivalent to the final staged reduction pursuant to the most recent Multilateral Trade Negotiations (MTN) which would otherwise become effective on January 1, 1989.

DESCRIPTION AND USES

TSUS item 355.45 includes fish netting and fishing nets (including sections thereof), of textile materials other than cotton or other vegetable fibers. Man-made fibers account for most of the yarn or twine used in making the netting and nets imported under TSUS item 355.45. Such articles constructed in chief value of cotton (item 355.35) or in chief value of other vegetable fibers, except cotton (items 355.40 and 355.42) are not affected by this legislation.

Fish netting is usually referrred to as "webbing" by fishermen, to distinguish it from rigged nets which are ready to be used in actual fishing operations. Most fish netting produced in the United States is made primarily of yarn or twine of man-made fibers which is knitted or knotted together by machine forming piece goods of uniform meshes. The size of the twine of the mesh depends on the particular use for which the netting is intended. Nets of fine twine and small meshes are used to catch smaller fish.

The construction of fishing nets involves the cutting and piecing together of netting material and the attachment of floats, sinkers, and ropes. There are at least three important categories of fishing nets—trawl, seine, and gill. Trawl nets are used to catch those species of fish living on or very near the sea bottom, such as shrimp and flounder. These nets are large and bag shaped, and are towed along the bottom of the sea by a vessel. As the net is drawn forward, pressure of the water against the boards attached to each side of the mouth acts to keep the net open and thus permit the fish to be swept in. Seine nets are large and are usually supported by floats at the water's surface and weighted at the bottom. These nets are cast into a circle around a school of fish (such as tuna and herring) by the fishing vessel. The net is closed, entrapping the fish when the purse line, which runs through rings attached by rope bridles at varying intervals to the lead line, is pulled. With the seine completely closed, the net is raised onto the vessel's deck by a hoist which is attached to the lead line of the net. Gill nets are designed to catch fish by the method known as gilling, as oposed to the entrapping methods discussed above. Such nets are designed so that the mesh is of sufficient size to admit only the head of the fish. When the fish swim into the net, the net slips under and back of the gills, and when the fish attempt to escape, they become entangled in the mesh. Gill nets are usually staked or anchored in place, although in some areas drift nets are used. The latter are allowed to drift from the stern of the boat, after being rigged with a cork line and set on the water's surface. The nets within these three classes (trawl, seine, and gill) differ greatly, depending on the locality and the type of fish to be taken. Different types of vessels are also used. Nets used in commercial fishing vary in length and may be as long as 1,800 feet.

TARIFF TREATMENT

Fish netting and fishing nets are currently dutiable in the TSUS as follows:

---

[1] There have been several recent legislative proposals affecting the tariff status of fish netting. For example, H.R. 2048, 95th Cong., 1st Sess. (January 19, 1977); H.R. 1211, 96th Cong., 1st Sess. (January 22, 1979); H.R. 2485, 96th Cong., 1st Sess. (February 28, 1979); section 1622(f) (amending section 466 of the Tariff Act of 1930) of H.R. 111 (Panama Canal Act of 1979), 96 Cong., 1st Sess. [See H. REP. NO. 96-98 (Pt. I) 125-127 (April 23, 1979)]; H.R. 6571 (amending section 466 of the Tariff Act of 1930), 96th Cong., 2d Sess. (February 22, 1980) [enacted as section 115, Pub. L. No. 96-609; effective retroactively from October 1, 1979, through January 1, 1982].

Brief description	TSUS item No.	Rate of duty	
		Column 1	Column 2
Of cotton	355.35	17.5% ad val	40% ad val.
Of vegetable fibers, except cotton:			
Of abaca, for use in otter-trawl fishing	355.40	Free	Free.
Other	355.42	11% ad val	45% ad val.
Other [1]	355.45	25¢ per lb. + 32.5% ad val.	82% ad val.

[1] TSUS item 355.45 is annotated for statistical purposes as follows:

Of man-made fibers:	
Salmon gill netting, of nylon	355.4520
Other	355.4530
Other	355.4590

The effect of the U.S. tariff rate concession for TSUS item 355.45 is that the column 1 rate of duty will be reduced in eight annual stages from 25¢ per pound plus 32.5 percent ad valorem in 1981 to a final rate of 17 percent ad valorem in 1989. The applicable MFN rates of duty from 1980 through 1989, with respect to the fish netting and fish nets covered by this legislation, are as follows:

Year	Rate of duty
1980	25¢/lb. + 32.5% ad val.
1981	25¢/lb. + 32.5% ad val.
1982	21¢/lb. + 30.6% ad val.
1983	18¢/lb. + 28.6% ad val.
1984	15¢/lb. + 26.7% ad val.
1985	12¢/lb. + 24.8% ad val.
1986	9¢/lb. + 22.8% ad val.
1987	6¢/lb. + 20.9% ad val.
1988	3¢/lb. + 18.9% ad val.
1989	17% ad val.

The United States has not granted an accelerated reduction of the MFN rate of duty with respect to imports of products of the least developed developing countries (LDDC rates).[3] The subject fish nettings and fishing nets are not eligible for duty-free treatment under the Generalized System of Preferences (GSP).[4]

Certain imports under TSUS item 355.45 (consisting of man-made fibers) are subject to restraint under the provisons of the Arrangement Regarding International Trade in Textiles (MFA). It is noted that the MTN staged reductions in the column 1 rates of duty for items in schedule 3 (including the rate for item 355.45) are presently subject to the so-called "snapback" provision provided for in headnote 8, schedule 3, TSUS (as added by section 504 of the Trade Agreements Act of 1979).[5] That headnote requires the President to reinstitute by proclamation the pre-MTN column 1 rate of duty (i.e., that rate existing on January 1, 1975) if: "the Arrangement, or a substitute arrangement, including unilateral import restrictions or bilateral agreements, determined by the President to be suitable, ceases to be in effect with respect to the United States *before the total reduction in the rate of duty for such item under sections 101 and 109 of the Trade Act of 1974 has become effective* . . ." (Italic added.)

---

[3] The rates of duty in rate of duty column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are appicable to products of the least developed developing countries designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 applies.

[4] The GSP under Title V of the Trade Act of 1974 provides duty-free treatment of specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985, unless modified by the President or terminated.

[5] See S. Rep. No. 96-249, 96th Cong., 1st Sess. 174-5 (1979).

It would appear that this legislation would preclude the "snapback" of the duty rate for item 355.45 after January 1, 1982, however, since it has the effect of implementing the total MTN-negotiated duty reductions for that item as of that date.

Finally, in investigation No. AA1921-85 (April 1972), under the Antidumping Act of 1981, as amended, the United States Tariff Commission determined that an industry in the United States was being injured by reason of the importation of fish netting of man-made fibers from certain Japanese companies which was being sold at less than fair value. As a result, the Treasury Department (T.D. No. 72-158) imposed dumping duties, which are still in effect for certain Japanese companies. The U.S. Department of Commerce published a notice of the preliminary results of an administrative review of the previous antidumping finding in the Federal Register of May 5, 1981 (45 F.R. 25118). On July 28, 1981, the Commission received a request to review its affirmative determination in investigation No. AA1921-85. The request was filed under section 751(b) of the Tariff Act of 1930 by counsel representing nine Seattle, Washington/Portland, Oregon area importers of salmon gill fish netting from Japan. The Commission instituted an investigation under section 751 on October 16, 1981 (Inv. No. 751-TA-5) covering salmon gill fish netting, of man-made fibers, from Japan.

STRUCTURE OF THE DOMESTIC INDUSTRY

There are approximately 12 firms located in 10 states producing fish netting and fishing nets in the United States. Some of these firms have fewer than 10 employees while others have over 100. Total employment in the industry is estimated to be approximatley 1,000 persons. In addition, numerous individual fishermen and small net shop operators purchase netting of both foreign and domestic origin and assemble their own nets.

Five of the industry's largest companies which account for approximately 75 percent of total estimated domestic production are: Nylon Net Company, Memphis, Tenn., FNT Industries, Inc., Minominee, Mich., Bayside Net & Twine Co., Inc., Brownsville, Tex., Hagin Firth & Sons Co., Willow Grove, Penn., Harbor Net & Twine Co., Inc., Hoquiam, Wash.

Domestic producers have stated that they have both the technical capability and manufacturing capacity to produce the full range of fish netting and fishing nets imported into the United States, although admittedly at a given time certain netting may not be under actual production.

DOMESTIC SHIPMENTS

Estimated domestic shipments of fish netting and fishing nets by the dozen U.S. firms, increased annually from 3.9 million pounds in 1976 to 5.6 million pounds in 1979, then declined to 4.4 million pounds in 1980. The value increased from $11.8 million in 1977 to $16.7 million in 1979, then declined to $14.3 million in 1980 (table 1).

The decline in domestic shipments (as well as imports and apparent consumption) in 1980 was due primarily to economic conditions. Soaring fuel prices and high interest rates caused many fishermen to cut expenses by reducing their purchases of new fish netting or fishing nets. Because of high fuel prices many fishermen did not stay at sea as long, therefore many nets did not receive as much wear resulting in a decrease in the need for replacements. Also, since most fish netting and fishing nets are purchased on credit and paid for after the catch is sold, many fishermen deferred the purchases of new netting and nets to avoid the higher interest rates.

U.S. IMPORTS

Imports of fish netting and fishing nets of textile materials, other than vegetable fibers (TSUS item 355.45), increased annually from 1.2 million pounds, valued at $3.1 million in 1976, to 2.3 million pounds, valued at $9.2 million in 1979. Imports then declined to 2.1 million pounds, valued at $7.4 million in 1980. Man-made fiber fish netting and fishing nets accounted for about 99 percent of such imports. Imports of man-made fiber fish netting and fishing nets accounted for 92 percent of the total value for fish netting and fishing nets of all types of textile materials in 1976, compared to 97 percent in 1980. Japan has been the principal source of U.S. imports under TSUS item 355.45, supplying 76.2 percent (based on value) of such imports in 1976 and 65.6 percent in 1980 (table 2). Imports from sources subject to column 2 rates of duty have been nil.

The market penetration of U.S. imports under TSUS item 355.45 increased annually from 23.1 percent of apparent consumption in 1976 to 33.3 percent in 1980 (table 1).

Leading importers of fish netting and fishing nets (TSUS item 355.45) are Seattle Marine and Fishing Supply Company, Seattle, Washington; John Redden Net Company, Inc., Bellingham, Washington; Lummi Fishery Supplies, Inc., Bellingham, Washington; Nylon Net Company, Memphis, Tennessee; Povanovich Supply Company, Seattle, Washington; and Trans Pacific Trading Inc., Seattle, Washington.

U.S. EXPORTS

Prior to 1978, export statistics of fish netting and fishing nets were not separately reported. Exports of fish netting and fishing nets of all types of textile materials were 227,000 pounds, valued at $404,000 in 1978. The following year such exports were 199,000 pounds, valued at $476,000 and then rose to 271,000 pounds, valued at $774,000 in 1980. Canada has been the primary recipient of these exports with Mexico second. The bulk of these exports consist of fish netting of man-made fiber.

APPARENT U.S. CONSUMPTION

Apparent U.S. consumption of fish netting and fishing nets of types included in TSUS item 355.45 increased annually from 5.1 million pounds in 1976 to 7.7 million pounds in 1979, then declined to 6.2 million pounds in 1980 (table 1).

According to industry sources the decline, after several years of increases, is due primarily to a dip in the fish catching cycle, which historically happens every three to five years. In addition, the increases in fuel prices and higher interest rates often influence the fishermen to spend more time repairing nets to cut expenses rather than replacing them. Domestic consumption in recent years consisted almost entirely of netting and nets of man-made fibers.

POTENTIAL ANNUAL LOSS OF REVENUE

Based on import data for 1980, the potential loss of revenue resulting from enactment of this legislation would be approximately as follows:

Year:	
1982	$1,437,029
1983	1,227,531
1984	1,025,397
1985	823,264
1986	613,765
1987	411,632
1988	202,134
1989	0

The final MTN staged rate reduction will become effective in 1989 when it will be equal to the proposed rate of 17 percent ad valorem. The column 1 rate of duty will decline and, consequently, the potential loss of revenue will decline each year until 1989.

TECHNICAL COMMENTS

The phrase (in the quoted material) "Fish netting * * * textile materials (con.):" is unnecessary and not part of the statutory language of the TSUS (19 U.S.C. 1202). This phrase appears in the Tariff Schedules of the United States Annotated solely for the reader's convenience and should be deleted from the proposed amendment. The rate of duty in rate column numbered 1 should be "17% ad val." in lieu of "17%". Section 2 should be amended to read "on or after the date of the enactment of this Act" in lieu of "on or after January 1, 1982", if final action is not taken on this proposal during 1981, unless the Committee contemplates retroactive application with respect to the entery and withdrawal of articles covered by item 355.45.

If the Committee desires to retain the President's authority, under section 125 of the Trade Act of 1974, to withdraw, suspend, or modify the application of trade agreement obligations of benefit to a foreign country or instrumentality, with respect to TSUS item 355.45, the following additional language is suggested.

(b) For purposes of the Trade Act of 1974, the amendments made by this section (not including the rates of duty in column numbered 2 of the Tariff Schedules of the United States) shall be considered to be trade agreement obligations entered into and proclaimed under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.[6]

Thus, the President could terminate, suspend, or modify this amendment to the TSUS, pursuant to section 125, if a country or instrumentality benefiting from the immediate reduction in the staged rate terminates, suspends, or withdraws any trade agreement obligation of benefit to the United States without providing adequate compensation.

TABLE 1.—ESTIMATED U.S. CONSUMPTION OF FISH NETTING AND FISHING NETS OF TEXTILE MATERIALS, OTHER THAN VEGETABLE FIBERS (TSUS ITEM 355.45) FOR THE PERIOD 1976–80, AND JANUARY–JUNE 1981

Period	Producers' shipments [1]	Exports [2]	Imports	Apparent consumption	Ratio of imports to consumptions (percent)
Quantity (in 1,000 pounds):					
1976	3,909	(3)	1,176	[4] 5,085	23.1
1977	4,433	(3)	1,465	[4] 5,898	24.8
1978	4,950	227	1,833	6,556	28.0
1979	5,567	199	2,321	7,689	30.2
1980	4,419	271	2,074	6,222	33.3
January–June 1981	(5)	(5)	748	(5)	(5)
Value (1,000 dollars):					
1976	(5)	(3)	3,088	(5)	(5)
1977	11,846	(3)	4,499	[4] 16,345	27.5
1978	13,582	404	6,336	19,514	32.5
1979	16,690	476	9,244	25,458	36.3
1980	14,301	774	7,365	20,892	35.3
January–June 1981	(5)	(5)	3,117	(5)	(5)

[1] Includes netting of manmade fibers only.

[2] Includes netting of all types of textile materials.

[3] Not separately reported.

[4] Does not include export statistics.

[5] Not available.

Source: Production data for 1976-80 estimated from data obtained by the American Netting Manufacturers Organization. Imports and exports complied from official statistics of the U.S. Department of Commerce.

TABLE 2.—U.S. IMPORTS FOR CONSUMPTION OF FISH NETTING AND FISHING NETS, OF TEXTILE MATERIALS, OTHER THAN VEGETABLE FIBERS (TSUS ITEM 355.45[1]), BY PRINCIPAL SOURCES, 1970–80

Country	1976	1977	1978	1979	1980
Quantity (1,000 pounds):					
Japan	748	937	1,198	1,611	1,127
Korean Republic	154	235	202	179	298
Canada	46	45	93	130	127
China T	95	113	131	80	122
All other	109	103	198	315	373
Total	1,152	1,433	1,822	2,315	2,047
Value (1,000 dollars):					
Japan	2,320	3,473	4,956	7,455	4,750
Korean Republic	256	402	374	389	649
Canada	78	83	201	401	365
China T	163	243	287	222	329
All other	228	222	484	758	1,144
Total	3,045	4,423	6,302	9,225	7,237

[1] Includes statistics of manmade fiber fish netting and fishing nets only, which account for approximataly 99 percent of imports under TSUS item 355.45

Source: Compiled from official statistics of the U.S. Department of Commerce.

---

[6] See, Public Law No. 96-609, sec. 117(d); effective Dec. 28, 1980.

Man-Made Fiber Producers Association, Inc.,
Washington, D.C., June 1, 1982.

Hon. **Sam M. Gibbons,**
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, D.C.

Dear Chairman Gibbons: The Man-Made Fiber Producers Association wishes to record its opposition to two tariff reduction bills pending before the Trade Subcommittee of the Ways and Means Committee. Our Association represents the manufacturers of more than 90 percent of the man-made fibers produced in the United States. Man-made fibers, in turn, account for 76 percent of domestic fiber consumption.

Our Association supports the testimony of the American Netting Manufacturers Organization in opposition to H.R. 4002. This bill would reduce the duty on imported man-made fiber netting and nets from 36 percent to 17 percent ad valorem. This is the same reduction negotiated in the Multilateral Trade Negotiations of 1979. We do not believe it is appropriate to arbitrarily and prematurely give away a duty reduction which was arrived at in the course of international negotiations. Further, the American netting industry is an efficient and mature one fully capable of supplying the domestic market.

The Man-Made Fiber Producers Association also opposes H.R. 5891. This bill would establish a duty of 5.6 percent ad valorem for man-made fiber disposable hospital apparel and draperies. Currently this product is provided for under Tariff Schedule Numbers 379.96, 383.92 and 389.62. The first two of these numbers carry a duty of 25¢ a pound plus 27½ percent ad valorem, and both of these would be reduced to 17 percent in 1987 by the MTN. The third number carries a duty of 25¢ a pound plus 15 percent ad valorem, and this would be reduced to 9 percent by the MTN. Our Association opposes this bill on the same grounds as our opposition to H.R. 4002.

We appreciate the opportunity to comment on these two bills and ask that this letter be made a part of the record. We stand prepared to provide any further information you may need.

Sincerely,

Charlie W. Jones,
President.

H.R. 4134, H.R. 5170

To amend the Tariff Act of 1930 to prohibit the transaction of customs business by nominal consignees, and for other purposes.

STATEMENT OF JAMES I. CAMPBELL, JR., COUNSEL, OF DHL CORP.

DHL Corporation, and its affiliates, comprise the world's largest international courier system. DHL currently provides rapid and reliable delivery of time-sensitive financial papers, bills of lading, blueprints, marketing reports, intracorporate memoranda, data processing and other business information to approximately 100 American cities and 190 foreign cities in 80 countries.

DHL strongly supports the basic purpose of H.R. 5170, "to expedite the international transmission of business documents." We would like to commend Congressman Frenzel for this farsighted and responsible efforts to simplify and expedite the transportation of international business documents.

The most important provision of the bill is contained in section 1, which would amend the list of so-called "intangibles" by adding the things currently listed under item 870.10 of the Tariff Schedules. Item 870.10 provides for duty-free entry for the following:

"Records, diagrams, and other data with regard to any business, engineering, or exploration conducted outside the United States, whether on paper, cards, photographs, blueprints, tapes, or other media."

Item 870.10 was enacted by Congress in 1963, by Public Law 87-455. The purpose of this exemption for business documents was to facilitate America's international business by permitting the free flow of business documents. As stated by the originator of this provision, the Senate Finance Committee, the purpose of this provision was as follows:

"*The amendment would clarify a situation putting a burden on business firms with overseas branches . . . Data with regard to business, engineering, or exploration operations collected abroad and brought back to the United States for consideration by the executives of a firm may be subject to various rates of duty* depending upon more of the type of material upon which the data are recorded than on the content or meaning. These records are not saleable, their customs valuation is frequently in doubt, *and delays and uncertainties are troublesome for business firms as well as for the Federal Government.* [Emphasis added.]

S. Rept. No. 1318, 87th Cong., 2d Sess. (1962).

Although business documents are duty-free, importation may still be slowed by the need for a formal or informal declaration. Some customs agents, for example, insist that each bag of documents include a packing list indicating the name of the consignee, shipper, country of origin, value, and a description of the merchandise. Since all business documents are duty-free, such information does not increase the revenues of the United States. On the contrary, since "time is money" such detailed documentation can impose substantial costs on American businesses doing business overseas.

H.R. 5170 would remedy these remaining difficulties by redesignating 870.10 documents as "intangibles," like currency and electricity, instead of "articles of merchandise." Under this amendment, business documents would no longer be declarable. Customs officials would, of course, retain the right to inspect documents to make sure that they are, in fact, documents. The only change that would be effected is that the importer would no longer be obliged to prepare a document declaring what documents he is importing.

This is a wholly desirable improvement in the law. It will certainly cause no loss of revenue to the United States. Moreover, we can think of no public policy reason, consistent with the First Amendment, to support continued collection of detailed information regarding who imports what kinds of business documents from which sources. On the other hand, H.R. 5170 will clearly make it significantly easier for U.S. companies to conduct their international business. As the Congress has declared that "It is important for the national interest of the United States that both the private sector and the Federal Government place a high priority on exports, which strengthen the Nation's economy." Export Administration Act of 1979, Pub. L. 96-72, sec. 2 (50 U.S.C. app. 2401(2)). For an exporter of highly technical services and products, one key to expanding exports is the removal of unwarranted barriers to the flow of financial, marketing, and engineering information.

Although we strongly support the purpose of section 1, we would like to point out two technical difficulties which, although minor, are potentially very important to the individuals affected.

The first point involves the administrative interpretation of Item 870.10 by the Customs Service. In a series of opinions, Customs has somehow arrived at a completely wrong-headed interpretation of the application of Item 870.10 to drawings and blueprints. Customs has ruled that:

"Generally, if the drawings or blueprints are solely the product of original professional effort done abroad, they are properly classified under item 870.10, . . . free of duty. However, if any portion of the professional effort is done by United States professionals, whether this occurs in the United States or [a foreign country], they are properly classifiable under item 273.55, TSUS, dutiable at 4 percent ad valorem."

Letter to unknown party from Harvey B. Fox, Director, Entry Procedures and Penalties Division, U.S. Customs Service, dated June 7, 1978, reference number ENT-1-01 R:E:E, 305792 K.

Clearly, the effect of Customs' current administrative interpretation of Item 870.10 is to protect foreign engineering companies against their American competitors. This directly contradicts Congress' intention as explained by the Senate Finance Committee report quoted above.

If Congress reenacts the language of Item 870.10 in light of this administrative interpretation, the court may rule that Congress has adopted this unfortunate statutory construction. See *Haig* v. *Agee,* — U.S. —, 101 S.Ct. 2766, 2778 (1981); *NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267, 274–75 (1974); *Zemel* v. *Rusk*, 381 U.S. 1, 12 (1965).

To remedy this situation, H.R. 5170 should contain an explicit repudiation of this mis-interpretation of Item 870.10. One solution would be to add a new subsection to section 1, as follows: "(3) Paragraph (e) of general headnote 5, as amended by this section, shall be deemed to include any drawing or blueprint which pertains to any thing which is to be manufactured or constructed outside the United States, regardless of the nationality of the author of the drawing or blueprint. Any contrary administrative rulings by the Customs Service are hereby declared invalid."

The second technical problem with section 1 of H.R. 5170 involves the applicable rule of construction. Under current law, Item 870.10 benefits from a liberal rule of construction. Headnote 1 to Schedule 8 which states that "any article which is described in [TSUS 870.10, inter alia] is classifiable in said provision if the conditions and requirements thereof * * * are met" regardless of whether the item might also be classifiable in another classification of the Tariff Schedules. This sectional headnote excludes Item 870.10 from the more restrictive general interpretative rules established by general headnote 10. While the rule of construction might not make a difference in very many cases, it could be very important in those few cases in which it is applicable. To ensure that all of the current scope of Item 870.10 is transferred to general headnote 5, we suggest adding a new subsection to section 1 of H.R. 5170 restating the gist of sectional headnote 1 to Section 8, as follows: "(4) Anything which may be classifiable in paragraph (e) of general headnote 5, as amended by this section, shall be so classified without regard to the interpretative rules set forth in general headnote 10." [1]

Sections 2 through 5 of H.R. 5170 pertain to the question of who may prepare and file the documents for articles being entered under the requirements of section 484 of the Tariff Act of 1930 (19 U.S.C. 1484). The gist of the proposed changes is to prohibit any person from performing this task except the owner, the ultimate consignee, and a customhouse broker licensed under section 641 of the Act (19 U.S.C. 1641). The purpose, as we understand it, is to prohibit a courier or other freight forwarder from making entry of articles.

Under current law, a courier or other freight forwarder is allowed to make entry in a situation in which he has shipped articles to himself, for example, where ABC Forwarding Company in London ships articles to ABC in New York. In such cases, the courier or other freight forwarder would be listed on the airwaybill or bill of lading and hence would be entitled to make entry on a carrier's certificate. See sections 483, 484(h) of the Act, 19 U.S.C. 1483, 1484(h). In practical terms, this practice permits couriers and other freight forwarders to compete with customhouse brokers in the business of preparing and filing entry declarations for other persons who cannot be present at importation.

---

[1] These two suggestions result in some awkwardness in the resulting general headnote 5. It would be simpler to recast section 1 of H.R. 5170 as providing for a new general headnote 5a, as follows:

5a. *Intangible communicative media.*—For the purposes of headnote 1, records, diagrams, and other data with regard to any business, engineering, or exploration conducted outside the United States, whether on paper, cards, photographs, blueprints, tapes, or other media are not articles subject to the provisions of these schedules. This headnote shall be deemed to include any drawing and any blueprint which pertains to any thing which is to be manufactured or constructed outside the United States, regardless of the nationality of the author of the drawing or blueprint. Anything which may be classifiable in this headnote shall be so classified without regard to the interpretative rules set forth in general headnote 10.

DHL Corporation has no desire and no present intention of offering services which are competitive with the services which customhouse brokers provide in connection with the entry of dutiable articles. DHL voluntarily employs licensed customhouse brokers to assist in the clearance of dutiable items and will continue to do so regardless of whether compelled by law.

Nonetheless, we must point out that barriers to any form of competition should not be enacted lightly. There may be sound reasons for using the licensing procedures for brokers as a means of accrediting persons qualified to offer such brokerage services to the public. There seems to us very little public benefit from using the licensing procedures as a means of limiting competition artificially. If a shipper chooses to allow his courier or freight forwarder to make entry for him, realizing that the courier or forwarder is not accredited by the Customs Service, why should he not have this option? Surely the inexperienced members of the public will always employ customhouse brokers accredited by the Service and, on the other hand, the experienced shippers can assess for themselves the risks of dealing with an unaccredited courier or other freight forwarder. Furthermore, it must be remembered that under current law, the forwarder has a strong incentive to declare imported articles correctly, for he is liable for fines or penalties in the case of mis-declaration. In view of these considerations, it seems to us doubtful whether it is necessary to change a system which has worked satisfactorily for decades.

These general considerations aside, DHL anticipates that sections 2 through 5 of H.R. 5170 will cause no operational problems for it if one point can be clarified in the legislative history of the bill. As we understand it, a courier is a "duly authorized agent of the actual owner or consignee" (page 2, lines 22-23) since the courier is hired by either "the owner" (i.e. the shipper) or the "consignee" (i.e., the addressee). Therefore, a courier may continue to be named on a carrier's certificate even though the courier would no longer thereby have the right to make entry of articles entrusted to him. According to section 4, a courier would be a "nominal consignee" and therefore, under section 2, a courier named on a carrier's certificate would still be required to retain a customhouse broker to make entry.[2]

We believe that it is important that the courier continue to be named on the carrier's certificate because it simplifies the procedures for broker selection and fortifies the courier's position in the transaction. It is then clear that the broker is working for the courier instead of the owner or ultimate consignee. The alternatives present unnecessary difficulties. If the owner were required to name the broker it would have to do so, as a practical matter at the time of the pickup, perhaps forty-eight hours prior to entry into the United States. Even allowing for the fact that the courier can recommend a broker to the owner, this procedure could result in delays if for any reason the named broker is unable to provide immediate clearance of the time-sensitive articles. The better procedure is, of course, to allow the courier the flexibility to select a broker at any time up to the actual moment of entry into the United States. Similarly, unnecessary delays may result if the ultimate consignee is required to select the broker. The ultimate consignee may not know the brokers in the port of entry and, indeed, may not even know the article is being sent to him until notified by the courier.

Thank you for this opportunity to testify and for taking into consideration our comments.

STATEMENT OF O. KEISTER EVANS, EXECUTIVE VICE PRESIDENT, INTERNATIONAL HARDWOOD PRODUCTS ASSOCIATION

DESCRIPTION OF ORGANIZATION

The International Hardwood Products Association (IHPA) is an international trade association headquartered in Alexandria, Virginia. Voting members of the Association are U.S. companies actively engaged in the importation of forest products. Many of these companies are also actively engaged as exporters. A copy of the Association's membership roster is enclosed.

---

[2] The Testimony of M. Sigmund Shapiro, representing various customhouse brokers, would alter instead of clarifying this idea of H.R. 5170. Section 7 of the replacement bill proposed by Mr. Shapiro would eliminate the courier or forwarder from the carrier's certificate thus leaving unclear his right to retain a broker to clear articles.

IHPA also represents a variety of associate members which are companies that provide special services to the voting member companies. Among the active group of associate members are customs brokers located at the major U.S. ports of entry. These companies perform an invaluable service to our industry, handling with speed, expertise, and efficiency the technical and detailed services that are required for the proper entry of our products into the U.S.A. In 1981, the dollar volume of imported hardwood products into the U.S. was $1.7 billion, most of which was entered by licensed customs brokers.

SUMMARY OF POSITION STATEMENT

The International Hardwood Products Association (IHPA) is in favor of H.R. 5170, with amendments as proposed by the National Customs Brokers & Forwarders Association of America. Our Association supports Section 1 of H.R. 5170 regarding customs treatment as "intangibles" of certain records, etc., pertaining to business, engineering or exploration operations conducted outside the United States. Regarding the other Sections of H.R. 5170, we endorse passage of amendments as proposed by the National Customs Brokers & Forwarders Association of America. A copy of these proposed amendments is attached hereto.

POSITION STATEMENT

The International Hardwood Products Association (IHPA), representing exporters and importers of forest products, relies heavily on the invaluable professional services furnished the industry by licensed customs brokers. These firms enable the importer to eliminate errors, expedite entries and provide him with professional services which reduce costs of personnel. We also submit that professional customs brokers perform a service that allows U.S. Customs to carry out its function more efficiently and with fewer employees than would otherwise be the case.

IHPA is, therefore, strongly in support of H.R. 5170, which will continue to require that imports, other than intangible materials, must be entered into U.S. Customs territory by either a licensed individual or by the actual owner of the merchandise. It is of utmost importance for the protection of the importer, and the professional customs broker as well, that the system is maintained which currently requires proper licensing of any firm, or individual, carrying out the function of a customs broker.

We have reviewed H.R. 5170 in its entirety with certain amendments as proposed by the National Customs Brokers & Forwarders Association of America, and find them to be clear in nature and feel they are important to strengthen the basic objectives of this legislation.

Thank you, Mr. Salmon, for your consideration.

PROPOSED AMENDMENTS TO H.R. 5170 (MR. FRENZEL)

1. Title of bill and § 1 remain unchanged.

SEC. 2. Section 483 of the Tariff Act of 1930 as amended (19 USC § 1483) is amended by striking from subsection (1) thereof the words "All merchandise imported into the United States shall be held to be the property of the person to whom the same is consigned; and".

SEC. 3. All that language of § 484(a)(1) of the Tariff Act of 1930 as amended (19 USC § 1484(a)(1)) preceding subparagraph (A) thereof is amended as follows: "Except as provided in §§ 1490, 1498, 1552, 1553, and 1336(j) of this title and in subsections (h) and (i) of this section, one of the parties qualifying as 'importer of record' under subsection (a)(2)(C) of this section, either in person or by an agent authorized by him in writing—".

SEC. 4. Section 484(a)(2)(C) of the Tariff Act of 1930 as amended (19 USC § 1484(a)(2)(C)) is redesignated as § 484(a)(2)(D), and a new § 484(a)(2)(C) is added to read as follows: "Notwithstanding any other provision of law, the documentation required by this subsection when for a commercial shipment shall be filed only by the actual owner or purchaser of the merchandise or by a person holding a valid license under the subparagraph, in the case of goods imported otherwise than by purchase or agreement to purchase and consigned to a sales agent of a foreign firm, the sales agent shall be deemed the actual owner. The party in whose name such documentation is filed shall be deemed the 'importer of record' for purposes of this subtitle."

SEC. 5. Section 484(a)(2)(D) of the Tariff Act of 1930 as renumbered by this Act is amended by striking the word "consignees" and inserting in lieu thereof "importers of record".

SEC. 6. Section 484(c) and (d) of the Tariff Act of 1930 as amended (19 USC § 1484(c) and (d)) are amended by striking the word "consignee" in both sections and inserting in lieu thereof the words "importer of record".

SEC. 7. Section 484(h) of the Tariff Act of 1930 as amended (19 USC § 1484(h)) is amended to read as follows: "Any person certified by the carrier bringing the merchandise to the port at which entry is to be made to be a party qualifying as 'importer of record' within the meaning of § 1484(a)(2)(C) of the Tariff Act of 1930 as amended, or an agent of such party, may make entry thereof, either in person or by an authorized agent, in the manner and subject to the requirements prescribed in this section (or in regulations promulgated hereunder) in the case of an importer of record within the meaning of said § 1484(a)(2)(C). A carrier shall not certify a person pursuant to this subsection unless it has actual knowledge of the truth thereof or reason to believe in the accuracy of such certification."

SEC. 8. Section 484(i) of the Tariff Act of 1930 as amended (19 USC § 1484(i)) is amended to read as follows: "Any person may, upon the production of a duplicate bill of lading signed or certified to be genuine by the carrier bringing the merchandise to the port at which entry is to be made, make entry for the merchandise in respect of which such bill of lading is issued, in the manner and subject to the requirements prescribed in this section (or in regulations promulgated hereunder) in the case of a party qualifying as importer of record within the meaning of § 1484(a)(2)(C) of the Tariff Act of 1930 as amended, except that such person shall make entry in his own name."

SEC. 9. Section 485, 487, 494 and 505(a) of the Tariff Act of 1930 as amended (19 USC §§ 1485, 1487, 1494 and 1505(a)) are amended by striking the word "consignee" wherever it appears and inserting in lieu thereof the words "importer of record".

SEC. 10. The amendments made by this Act shall apply with respect to merchandise entered on and after the thirtieth day after the day of enactment of this Act.

NEW YORK, N.Y., *June 8, 1982.*

Re Comments on H. R. 5170 to be considered by Congress.

JOHN J. SALMON, Esq.,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. SALMON: On behalf of the J. F. K. Airport Custome Brokers Association, we submit the following comments on H.R. 5170 and its proposed amendments to be considered by Congress prior to any formal action being taken on the proposed bill.

Our client is comprised of in excess of 150 member Customs brokerage firms located in the about J. F. K. Airport area. Since 1975, our Association has been actively involved in the attempt to correct what was considered and is still considered improper entry of merchandise by courier services and other similar "nominal consignees".

On September 16, 1980, a submission was made on behalf of our client to the United States Customs Service commenting on what became Customs Manual Supplement 3254 and published as CSB 81-169. Those comments closely scrutinized and analyzed the various statutes, regulations and cases pertaining to the right to submit entry documents and are attached for your perusal.

We have reviewed the presentation made to the Subcommittee on Trade, House Committee on Ways and Means on May 26, 1982 on behalf of the National Customs Brokers and Forwarders Association of America, Inc. and strongly support their comments and recommendations as well as the suggested amendments to H.R. 5170. We submit that the proposed amendments suggested by the National Association in many ways codify the existing law as it should have been interpreted regarding the proper entry of particular types of merchandise. Obviously, the expansion of "intangibles" and the change of language to read "Importer of Record" are new to the law but are appropriate to the intent of the current laws and regulations compiled as Title 19 of the United States Code and 19 CFR.

The proposed amendments to H.R. 5170 finally eliminates the confusion which has been in existence as a result of administrative changes in the interpretation of laws pertaining to nominal consignees as well as as in prior legislative suggestions pertaining to the difference in who the "Importer of Record" may be, as opposed to who has the right to file documentation with the United States Customs Service. The amendments clarify this, is that they posit that there is basically no restriction as to who may be the "Importer of Record" so long as the documentation is filed by "the actual owner or purchaser of the merchandise or by a person holding a valid license under the provisions of Sec. 641 of this Act as amended".

The proposed amendments protect the revenue of the United States as contemplated in *Top Form Brassiere Mfg. Co.* v. *United States,* R.D. 11770 (1972) in that they impose liability for duties and taxes upon an individual designated as the Importer of Record and also recognize and give teeth to the regulation which states that "an importer . . . transacting Customs business solely on his own account and in no sense on behalf of another is not required to be licenses . . .". The amendments thus recognize the dichotomy, which has always been in existance but not often recognized, in the statutes and regulations pertaining to entry of merchandise wherein the Importer of Record is not necessarily that indiviual who is permitted to file documents with the United States Customs Service and transact business with that agency. The amendments to H.R. 5170 mandate that only individuals with a direct economic interest in the merchandise or a Customs Broker file the necessary documentation. The broker is familiar with the rules and regulations of the United States Customs Service asd is chosed by that individual who has the economic interest in the goods to present documentation to allow entry of the merchandise into the commerce of the United States.

The ideal that the "Importer of Record" and the individuals authorized to conduct Customs transactions are not necessarily one and the same is thus codified, making clear a requirement that has always existed within the statute and the regulations, but which has never been fully understood by either the government or the importing public.

This new legislation accomplishes the purposes of both the importing public and the government in that it allows couriers to transport and deliver time sensitive documents with speed, but prevents those individuals not having knowledge of particular merchandise nor of the entry regulations from conducting business with the United States Customs Service. The responsibility of submitting proper documentation thus is where is belongs, wth individuals who have the "economic interest" in the merchandise or their duly authorized Customs Broker.

Respectfully submitted.

SOLLER, SINGER & HORN.
CARL R. SOLLER.

SERKO AND SIMON,
CUSTOMS AND TRADE LAW,
New York, N.Y., September 16, 1980.

Re International courier services.

U.S. CUSTOMS SERVICE,
1301 Constitution Avenue NW., Washington, D.C.
(Attention: Mr. Robert E. Chasen; Commissioner of Customs).

DEAR MR. CHASEN: Our firm represents the JFK Airport Custom Brokers Association, Inc., an organization whose membership includes over one hundred and eighty Customs brokers located in and around JFK International Airport in Jamaica, New York.

Over the years, the members of the Association have had numerous occasions to observe various unlicensed individuals, especially courier services, bring merchandise into the United States from abroad. The impropriety of the courier services' conduct with regard to Customs transactions is a major concern of the Association.

On behalf of the Association, we would like to thank the U.S. Customs Service for the opportunity to comment on the activities of the courier services. (45 Fed. Reg. 41565, June 19, 1980.) We are eager to discuss the enclosed comments at your convenience.

If you have any questions, or if we can be of assistance, please do not hesitate to call.

Sincerely,

DAVID SERKO.

Enclosure.

COMMENTS ON BEHALF OF THE JFK AIRPORT CUSTOM BROKERS ASSOCIATION, INC., PURSUANT TO FEDERAL REGISTER NOTICE OF JUNE 19, 1980, CONCERNING COURIER SERVICES

PRELIMINARY STATEMENT

Our client, the JFK Airport Custom Brokers Association, Inc., has been actively involved in advising and consulting with Customs on the problems which have arisen as a result of entry and attempted entry of merchandise by unlicensed individuals, particularly couriers.

This activity has been ongoing since 1975. Throughout, it has been recognized by the Customs Service that there are many problem areas encountered when dealing with entries of large quantities of merchandise from different shippers, consolidated for delivery to the United States by courier services. (New York Region Informational Pipeline No. 235, Jan. 19, 1977, ENT-I-O:I; attachment 1.)

The problems of identifying the merchandise brought in by courier services arise primarily because there is no adequate description of the merchandise carried. In addition, the courier does not have the expertise or desire to examine the merchandise which he carries in order to determine its proper tariff classification or whether it is dutiable.

It is our understanding that the overseas shipper does complete an invoice which generally describes the merchandise and names the actual consignee in the United States. The shipper then delivers the package to the courier for delivery to the actual U.S. consignee.

As discussed in the Federal Register notice, courier services import their packages in two basic ways—either through use of an "on board" courier who brings the courier pouches into the country with him, or through use of a cargo courier. The cargo courier operates by having a courier service employee overseas arrange for unaccompanied shipment of the articles to a courier service in the United States. The United States courier is usually named as the consignee. The courier, as consignee, often employs a customs broker to make formal or informal entry of the pouches in the courier's cargo shipment.

In contrast, an "on board" courier carries approximately 10–15 pouches as accompanying baggage and claims such status on his baggage declaration. In most instances, intangibles and other dutiable and nondutiable articles are comingled. This comingling and the tendency to declare all items contained in the pouches as intangibles is a source of major concern.

In many instances, the courier, upon attempting to make entry into this country of that merchandise, with or without the aid of a Customs broker, has attempted to clear all merchandise within its possession under the guise of the merchandise being intangibles and therefore not subject to Customs formal entry requirements. On numerous occasions, it has been discovered that indeed what was being entered was not intangibles, but merchandise that required either a formal or informal entry and that was dutiable. It has always been our position that the entry documents relating to this merchandise must be completed either by the importer or the Customs broker as the importer's duly authorized agent. The Customs regulations at 19 CFR 111.3 (attachment 2) conclusively establish that only an "importer or exporter transacting Customs business *on his own account* and in no sense on behalf of another is *not* required to be licensed." (Emphasis added.) A courier does not qualify as an importer or an importer's licensed agent.

An analogous situation which has been recognized by Customs for some time is that of the consolidator overseas and the break bulk agent here in the United States. Customs has insisted that the contents of a container, although consigned to a break bulk agent or container station in the United States, must be entered by the consignee on each house air waybill or its duly authorized Customs broker. A break bulk agent may not enter the contents of the container unless he is the actual consignee on the individual air waybills.

In the same way, a courier who assembles packages from various shippers overseas should be treated as the consolidator, and the courier's agent in the United States should be treated as the break bulk agent. The Customs transactions regarding entry of this merchandise, whether intangibles or other articles, must be conducted by the actual consignee or Customs broker designated by that actual consignee.

The difficulties in making proper appraisement of the merchandise brought in by courier services begins in the foreign country. It is normal practice that, when an overseas shipper uses a courier service, the overseas shipper does not fully describe the contents of the package which is being sent to the United States. Thus, there is no adequate description which Customs can use to make a proper appraisal of the merchandise for entry purposes.

This lack of full descriptions is contrary to the requirements for practically all other types of commercial shipments for which detailed invoices are required for the purposes of entry into the United States. When a courier is involved, the Customs broker performs a much more important role than in regular commercial shipments. The broker must, prior to entry of the merchandise, examine the merchandise and determine its value and its classification. The reasons that Customs has recognized brokers as experts in advising importers as to the classification and value of merchandise becomes much more apparent when there is no adequate description of the merchandise at the time it arrives in the United States.

Courier services must conform to the laws as presently written and it is our contention that expediency will not be lost through compliance with the law. It is our feeling that, with certain changes of practice, packages could be delivered with even greater speed.

One procedure that could be easily implemented and, which would go far in avoiding the types of problems that have risen in the past regarding the often misdescribed merchandise, is to require each shipper to attach to the courier package a specific description of the merchandise as well as its value and its tariff classification. This would serve three purposes. One, it would enable the importer or Customs broker making entry to complete documentation properly; two, it would insure, for Customs' purpose, that if the merchandise is misdescribed there is someone to whom Customs could ascribe responsibility for this misdescription; and, three, it would enable Customs officers to determine if the laws and regulations of the United States Postal Service are being violated. In the situations in which courier packages are sent on a prepaid duty basis, the shipper and the importer are often the same individuals. In such cases, the above suggested procedure would give Customs greater control over the shipper/importer who would have more of an incentive to describe the merchandise accurately.

The body of our presentation will concentrate on the responses to Customs' questions regarding certain aspects of entry of courier merchandise. The following are specific answers to the questions:

1. Bags or pouches brought into the United States as accompanying baggage by a courier service should not be considered baggage, but should be considered commercial cargo and treated as such.
2. The courier service designated as a consignee should not be able to file a formal or informal entry in its own name, since, even if designated a consignee, a courier service is not a consignee within the purview of the Customs statutes and regulations for the purposes of preparing or filing entry documentation.
3. A courier service in no instance can execute a power of attorney and designate a broker to make entry, since only the importer is authorized to designate a Customs broker. Of course, if an individual authorized to make entry of courier merchandise gives to the courier service a valid power of attorney, authorizing the courier to designate a particular broker to make entry, then, of course, the courier would have the authority to execute such a power of attorney to a Customs broker.
4. It appears that on at least some occasions the courier services are acting in violation of the laws and regulations governing the United States Postal Service.

Customs should recognize that couriers are not importers, nor are they actual consignees, and thus they have no more right to make entry or designate others to make entry than any other individual. To allow couriers to make entry in their own behalf, or to designate others improperly, violates the letter and spirit of the law.

I. The pouches and the contents thereof which are transported internationally by courier services are cargo, not baggage

The first question posed by the U.S. Customs Service, with regard to courier services, was whether bags or pouches imported by couriers should be treated as accompanying baggage of the individual "on board" courier. It is clear from reading the case law and the Customs Regulations that, in promulgating the relevant provisions, Congress and Customs contemplated two separate categories of imports—baggage and cargo. Courier packages, being cargo, should not be treated as "accompanying baggage".

In *United States* v. *One Trunk*, 175 F. 1012 (1909), the District Court for the Southern District of New York noted that Congress prescribed two independent systems of formalities for the importations of personal effects and of merchandise which was not personal effects, and it could not have been intended that both of these categories would be applicable to any one given shipment. The Court cited the Customs

Administrative Act of 1890 as authority for its conclusion. This distinction is also embodied in the Customs Regulations at 19 CFR 148.15 which provides that "[a]rticles not personal in character, or which are intended for sale or are brought in on commission for another person, may be included in the baggage declaration of a resident or non-resident under the conditions specified in section 148.23(c). If not so included, regular entry should be required" (attachment 3).

It is evident from this regulation that imported goods which are not personal in character and which do not meet the narrow characterization provided in section 148.23 is cargo and compliance with the regular entry procedures are compulsory.

A. *Definition of "baggage"*. The key issue here is what constitutes "baggage". The 1967 edition of Webster's Third International Dictionary, Unabridged, defines the term baggage, as used in the present context, as "* * * *Personal belongings* of travelers either carried by hand or checked with a carrier * * *." (Emphasis added.) An extensive discussion of "baggage", particularly as it applies to passengers on common carriers, completely supports our position that courier merchandise cannot be considered baggage since it is not "personal" in nature. See 14 Am. Jur. 2nd, pp. 623–632 (attachment 3A). The case law on distinguishing baggage from other types of articles also emphasizes the personal nature of baggage. The overwhelming majority of the cases define baggage to include only those articles that a passenger takes with him for his own personal use, comfort, or convenience during a journey, taking into account his taste, habits, and station in life, and having some regard to the object and length of his trip. See 14 Am. Jur. 2d. at pp. 627 and 629 and the cases cited therein. It is clear from these cases that, in order to be considered baggage, the accompanying packages must be personal in character and for the personal use of the passenger.

The pouches which the individual courier brings with him on an international flight are clearly not baggage under the long-standing case law definition of that term, nor under the common meaning of the term. The contents of the courier pouches include large numbers of separately addressed envelopes and parcels containing intangibles, business documents, plans, film, blueprints and other items. The contents of these pouches are clearly not personal in nature and have absolutely nothing to do with providing personal comfort and convenience during the journey of the individual "on board" courier. Therefore, the courier pouches can not be considered as accompanying baggage, but are obviously cargo and must be entered in accordance with normal Customs regulations and formalities.

A close reading of 19 CFR 148.15 and 19 CFR 148.23(c) indicates that Customs did not contemplate the use of these provisions by persons engaged in a commercial enterprise of conveying small parcels and envelopes for numerous and unknown persons in international commerce. These provisions read as follows:

"Section 148.15. *Inclusion of articles not for personal or household use.* Articles not personal in character or which are *intended for sale or are brought in on commission for another person,* may be included in a baggage declaration of a resident or non-resident under the conditions specified in Sec. 148.23(c). If not so included, regular entry shall be required. (Emphasis added.) (Attachment 3).

Section 148.23. *Examination and clearance of baggage.* (c) *Articles not for personal use*—(1) *Valued at not more than $250.* The inspector may also examine, determine the dutiable value of, collect duty on, and pass articles accompanying any person arriving in the United States properly listed on the baggage declaration, which are not for the personal or household use of the declarant or which *are intended for sale or are brought in on commission for another,* provided the aggregate value of such articles is not more than $250.

(2) *Valued over $250 but not over $500.* Articles in the baggage of or otherwise accompanying any person arriving in the United States which have an aggregate value over $250 but not over $500 and are not intended for his personal or household use, *or are intended for sale, or are brought in for commission for another,* may be examined and entered and cleared on a baggage declaration at the place of arrival with a passenger if:

(i) The articles are accompanied by a proper invoice if one is required * * * and
(ii) It is practicable to appraise the articles at the place of arrival. (Emphasis added.) (Attachment 4.)

These provisions provide an exception to be used occasionally for the declaration of imported goods on a baggage declaration only in the event that such goods are intended for the personal or household use of someone other than the declarant, intended for sale, or are brought in on commission for another particular individual. They are intended to apply to occasional or holiday travelers, not to those who are commercial couriers. Articles which are not intended for sale by the person making the declaration and articles which are part of a commercial shipment for which a commission may be paid to the courier by numerous other persons are clearly not within the contemplation of this regulation.

Further evidence that accompanying baggage was intended to include only personal or household items is contained in Schedule 8, Part 2 of the Tariff Schedules of the United States (TSUS). The superior heading for TSUS items 813.30, 813.31 and 813.40 specifically excludes from the personal exemption articles "imported for the account of any other person" and articles intended for sale.

While we do not allege that on board couriers are using the personal exemption provisions to clear courier pouches, we do maintain that entry by couriers of commercial shipments of assorted packages is in violation of the letter and spirit of the provisions concerning the treatment of accompanying baggage. Courier pouches contain commercial, not personal or household, merchandise and its entry into the commerce of the United States must be governed by the same laws and regulations which govern all other commercial shipments.

Further, it is our information that it is usually not practicable to appraise the contents of courier packages at the place of arrival. Therefore, the contents of courier pouches should be entered according to regular Customs formalities in a place where cargo is normally cleared.

B. *Requiring that courier pouches and their contents be entered as cargo and thus under the regular entry procedures is necessary for Customs to adequately carry out its function of exercising the appropriate control over articles imported into the United States.* Without such control the courier services could be used in ways not contemplated, such as for the importation of narcotics and other controlled substances, large sums of unreported currency and obscene materials. Without the close control which regular entry procedures provide, Customs would not be able to adequately inspect imported merchandise, and would be leaving a large loophole open for exploitation by persons who are aware of this lack of proper control and inspection of courier pouches.

It is also our information that on numerous occasions, the individual courier making the entry has simply stated that all of the envelopes within his pouch contain intangibles and therefore no entry is required. While this may be done as a matter of convenience, it is clearly in violation of Customs laws concerning fraud and the making of false statements on Customs declarations. (19 U.S.C. 1497 and 19 U.S.C. 1592; attachment 5.) The Customs fraud statutes are laws which must be complied with by each and every person who imports goods into this country and Customs may not selectively enforce these laws on the basis of convenience, expediency and time pressures.

Customs has recognized this problem and has issued instructions thereon in New York Region Informational Pipeline 235 of January 19, 1977, ENT-1-O:I. (Attachment 1.) Therein, it is stated that:

"[i]n the event of presentation of a false declaration that a shipment consists of "intangibles," or the submission of fraudulent documentation in an attempt to avoid proper entry or the payment of proper duties, inspectors shall make seizures pursuant to the provisions of Section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), or other applicable laws when deemed appropriate to the circumstances.

"Further when a shipment does not consist wholly of intangibles, if the party presenting to Customs documentation for the shipment is not a licensed Customhouse broker or his authorized employee, the party must be specifically authorized to do so."

Allowing a courier to claim all of his merchandise as intangibles without producing evidence of the actual nature of the contents of his pouches is in direct contravention of these instructions.

II. A courier service designated as a consignee may not make entry in its own name unless the courier is an importer bringing in merchandise for its own account

Although a courier service is designated as a consignee, Customs is not precluded from looking beyond such designation to asecertain the actual facts of a transaction. (BRO-3-05-R:E:E 711063 JB; attachment 6.) In making such an examination, Customs can inquire whether the courier is actually the consignee authorized to make entry under the entry requirements. In most cases, the answer to this inquiry will be negative.

The relevant statute provides that ". . . the consignee of imported merchandise shall make entry therefore either in person or by an agent authorized by him in writing under such regulations as the Secretary of the Treasury may prescribe." (19 U.S.C. 1484; attachment 7.) The regulations promulgated pursuant to this provision include 19 CFR 111.1(b) (attachment 8) and 19 CFR 111.3(a) (attachment 2). The first regulation, 19 CFR 111.1(b) defines a Customhouse broker as "a person who is licensed under this part to transact Customs business on behalf of others." A license is not required to engage in certain specific and limited transactions with the Treasury Department which are delineated in 19 CFR 111.3. One of these specific transactions is the transaction of Customs business for one's own account. "An importer or exporter transacting Customs business solely on his own account and in no sense on behalf of another is not required to be licensed . . ." It is clear from the statute and these two regulations that the only persons who may transact Customs business, i.e. prepare Customs documentation and engage in any other activity necessary to obtain release of goods from Customs' custody, must be done either by an importer or exporter for his own account, or a duly appointed Customs broker.

It is clear that a consignee of imported goods may make entry in its own name. However, the key question in this instance is whether a courier is a consignee as contemplated and intended under the statute and the regulations. It is our contention that a courier service is not such a consignee. A courier is not empowered to perform the functions of completing documentation to be submitted to Customs in order to allow the merchandise to enter the commerce of the United States.

A. *A consignee who is authorized to transact Customs business is not necessarily the consignee contemplated by Section 1483 of Title 19.* This statute provides that "all merchandise imported into the United States shall be held the property of the person to whom the same is consigned . . ." It is clear from the legislative history that the consignee at issue in this provision is the consignee named in the bill of lading and that the purpose of this statute is to protect Customs from liability if it releases merchandise to someone other than the actual consignee. This construction of Section 1483 is stated in *United States* v. *Fawcett* (86 F. 900, (1897)) wherein the court stated that the history of the provision that all imported merchandise shall be deemed the property of the consignee "ever since the act of March 2, 1799 (1 Stat. 675), where it first occurs, and the adjudications upon it, show that the object of that provision was to prevent frauds upon the government arising from collusive transfers; . . ." (86 F. 900, at 901) (See also, *Harris* v. *Dennie,* 3 Pet. 302, (1830).)

There is also substantial case law that a consignee for commercial purposes is not necessarily a consignee for tariff purposes. See *Babb* v. *United States,* 252 F.2d 702 (1958); *A. N. Deringer, Inc.* v. *Consolidated Computer Services International, Inc.,* 381 F.Supp. 208 (1974); *United States* v. *Bishop,* 125 F. 181 (1903); and *United States* v. *William H. Masson, Inc.,* 33 F.Supp. 874 (1940). These cases support the conclusion that the bill of ladng is *prima facie* evidence that the consignee owns the goods, i.e. Customs may release goods to the person without incurring liability. However, such a consignee is not necessarily authorized to appear before Treasury Department officials and transact Customs business under Section 1484 of Title 19 and 19 CFR 111.3.

B. *Only an importer or exporter for their own account or a duly appointed Customs broker may transact Customs business, which includes the making of an entry.* This is an unequivocable point of law. This limitation is embodied in the regulations which state that a license is not required to engage in Customs transactions for one's own account:

"An importer or exporter transacting Customs business solely on his own account and in no sense on behalf of another is not required to be licensed, nor are his authorized regular employees or officers who act only for him in the transaction of such business." (19 CFR 111.3; attachment 2.)

The policy reasons for this limitation on the right to make entry are quite clear. Customs is primarily concerned with collecting the appropriate revenue and the proper and accurate preparation of Customs documentation. The actual owner of the imported merchandise and the Customs broker are in the best position to be relied upon to meet the needs of Customs in achieving these objectives.

In addition, Customs brokers are licensed so that the Government can be somewhat assured that they are dealing with persons who are conversant with, and are competent to adhere to, Customs procedures and regulations.

The control maintained over Customs brokers by licensure and the variety of rules governing the practice of Customs brokerage helps to insure the protection of "importers and revenue of the United States". (19 U.S.C. 1641(d); attachment 9.)

Under ruling BRO-3-05-R:E:E, 711063 JB (attachment 6), Customs held that an otherwise duly licensed broker may not enter goods in which he has no interest in a port in which he is not licensed. In this instance, a Customs broker was licensed in one port, but not in another. Shipments were consigned "to order"; the broker was not the ultimate consignee. The broker attempted to enter the shipments as the importer of record in a district in which he was not licensed. This ruling prohibited the broker from making such an entry on the grounds that: (1) he was unlicensed, and (2) he was not importing on his own behalf as he did not have title to the goods.

Customs held that "[w]hile the Customs Service may act on the faith of a bill of lading pursuant to 19 U.S.C. 1483 and 1484, it is not precluded from going behind it to determine the authenticity of the facts." Customs further ruled that an unlicensed person may not enter imported merchandise under a bill of lading consigned "to order" for goods in which he has no interest in the disposition of the goods as the ultimate consignee or as an importer on his own behalf if he does not have clear title to the goods and is not engaged in the import business himself.

A broker, not permitted to make entry in this type of situation, is far more competent and conversant with Customs regulations applicable in any given port than the totally nonlicensed individual. It would, therefore, be highly inconsistent for a courier service, which is not licensed as a Customs broker in any port, to be able to make entry of goods in which it has no interest, when a Customs broker, licensed in at least one port, under the same regulation, could not make entry.

The standards to which the Customs broker must adhere are specified by regulations, 19 CFR 111.0-111.80 (attachment 10), and Customs control over a broker's performance is secured by Customs control over the broker's license. There is at present no equivalent control or standard of performance which Customs can impose upon courier services transacting Customs business.

A consignee of convenience, such as a courier, does not have sufficient knowledge of the imported merchandise to prepare proper documentation and he cannot be relied upon by Customs for proper collection of revenues; nor does the courier care to assume that responsibility. The normal courier "employee" is not trained in any of the intricacies of the law and has no interest in the description of the merchandise. His function is merely to accompany the pouches in international travel or to pick them up at the airport.

C. *The services provided by courier services are parallel in nature to those provided by freight consolidators and break bulk agents, and the procedures for courier services should be the same as those which govern freight consolidators and break bulk agents.* Courier services provide the service of shipping small parcels, pouches, envelopes, etc. This is accomplished through the consolidation of many smaller shipments into larger ones for transportation.

This process of consolidation for shipment is equivalent in all respects to consolidated freight services. In each case, small parcels are collected for consolidation into larger units for more economical and efficient transportation.

If a freight consolidator is designated as the consignee of the shipment, it has the right to make entry of the shipment's container. According to Customs procedures, the consolidator is not, however, a consignee of the parcels within the container with the right to make entry as to those parcels. It is only the *actual* consignee of the parcels that has the right to enter them and to file the documentation with Customs or to determine whether any documentation is needed.

Courier services perform the same type of services in the same manner as freight consolidators and must, by necessity, be subject to the same rules as the freight consolidator/break bulk agent.

The courier services have in many instances been clearing these shipments, including the internal parcels, themselves without a Customs broker or Customs broker's license. The courier services have theoretically been transacting their own Customs business under 19 CFR 111.3 which states that:

"A [Customs broker's] license is not required to engage in the following transactions with the Treasury Department or any representative thereof:

> "(a) *For one's own account.* An importer or exporter *transacting Customs business solely on his own account and in on sense on behalf of another* is not required to be licensed, nor are his authorized regular employees or officers who act only for him in the transaction of such business." (Emphasis added.) (Attachment 2.)

The language of Section 111.3(a) makes it clear that it is meant as a narrow exception to the requirement of possessing a license for transacting Customs business and is provided only for those persons who enter their own goods for their own account. The phrase "and in no sense on behalf of another" reiterates the narrowness of this exception.

Although it seems as if Customs may have condoned this method of operation; by the courier services, i.e. entering the contents of courier pouches for their own account, on one occasion, (BRO-3-DCV (WBL) of April 25, 1980; attachment 11), it is our contention that this practice is contrary to the statutes, regulations and Customs instructions.

In addition, Customs ruling EV 321.21D of March 20, 1967 (attachment 12) states unequivocably that only a licensed Customs broker or the actual owner may declare itself to be the importer of record.

In attempts to justify current entry practices by couriers, it has been argued that courier pouches are the same as "packed packages," and can be entered by the consignee under 19 CFR 141.52(b). This regulation permits the making of a single entry to cover the contents of a package specifically marked as a "packed package." This regulation, however, does not change the mandate that entry documentation is to be prepared and filed only by the importer for his own account or his duly appointed agent, a Customs broker.

III. A courier who is not the consignee may not appoint a broker to make entry.

As stated above, it is the law that Customs transactions may be conducted only by the importer/owner of imported merchandise or his duly appointed customs broker. (See 19 CFR 111.3, supra.) The courier is not the importer/owner of the contents of the courier packages and therefore cannot designate a broker to make entry of such packages. This made clear by 19 CFR 111.3(a) which states that:

"[a] broker shall not enter into any agreement with an unlicensed person to transact Customs business for others in such manner that the fees or other benefits resulting from the services rendered for others inure to the benefit of the unlicensed person except as provided in paragraph (b) of this section. (Attachment 13.)

(Paragraph (b) relates to employment of a broker by a freight forwarder.)

It is apparent that courier services, as well as any Customs broker involved in such an arrangement, are directly violating 19 CFR 111.36(a) when an agreement is reached wherein a courier service hires a Customs broker to perform the functions of making entry of courier merchandise through Customs where such entry is required. (See Serko & Simon letter of October 22, 1979, attachment 13A.) The courier services are being paid directly by their importer or exporter customs for the services which are being rendered by a Customers broker. The courier services, in turn, are compensating the Customs broker for performing this service for them.

The major benefit which the courier services receive from this type of agreement with a Customs broker is that they are able to promise door-to-door service for their customers; a very large benefit indeed since the reason for using the courier services is for the speed promised by the offeror of the service.

Just as a lay individual cannot share fees with a doctor or a lawyer, then neither should a courier service be able to share fees or other benefits with a licensed Customs broker. The regulations, specifically 19 CFR 111.36(a), recognize this, and prohibit such fee sharing.

Such prohibition is also consistent with 19 U.S.C. 1484. (Attachment 7.) That statute mandates that when entry of merchandise is being made by other than the consignee, the agent making entry must be so authorized in writing by the consignee/importer. The statute and regulations make it quite clear that, other than the importer/consignee, only a Customs broker shall make entry. Since the courier service in these situations is not the importer, it is not in a position to authorize Customs brokers to make entry on behalf of the actual inporter or consignee.

At the present time, the practice of courier services hiring brokers for their own benefit is being used only for small package that need expeditious delivery. But to allow this abuse to continue would in all likelihood lead to greater violations. There would be nothing to stop courier services, including those provided by the major airlines which have many foreign contacts, from soliciting door-to-door business on *all* merchandise they handle. The economic leverage which could be exercised by the courier services would be enormous and highly undesirable.

The only instance in which a courier may designate a Customes broker to make entry is when that courier is the actual importer/owner of the imported merchandise. Another possible solution, in situations where the shipper is also the importer, i.e. on duty-paid shipments, is the possibility of the shipper/importer giving the courier a power of attorney to give a power of attorney to a broker. This would be in compliance with the regulations if the shipper/importer were the consignee named in the invoice or on the air waybill and the importer were the ultimate consignee for purposes of the international transaction. Customs has already approved of an importer issuing a power of attorney to one broker which empowered that broker to issue, on behalf of the importer, a power of attorney to a second broker (BRO 4-01 R:E:E 306445W). In the courier situation, as in the case which was the subject of this ruling, the broker would be the agent of the importer, not of the courier.

IV. Courier services may be acting in violation of the statutes and regulations governing the United States Postal Service

Various statutes and regulations relating to the United States Postal Service govern those instances in which a "letter" may be carried and delivered by other than representatives of the United States Postal Service.

The general rule as stated in 39 U.S.C. 601 is that:

"(a) A letter may be carried out of the mail when—(1) it is enclosed in a envelope; (2) the amount of postage which would have been sent by mail is paid by stamps, or postage meter stamps, on the envelop; (3) the envelope is so sealed that the letter can not be taken from it without defacing the envelope; (5) any stamps on the envelope are canceled in ink by the sender; and (6) the date of the letter, or its transmission or receipt by the carrier is endorsed on the envelope in ink." (Attachment 14).

See also 39 CFR 310.2, "Unlawful Carriage of Letters." (Attachment 15.)

A letter is generally defined as "a message directed to a specific person or address and recorded in or on a tangible object, * * *" (39 CFR 310.1(a); attachment 16.) Although there are many exceptions to this definition, it is clear that couriers are constantly in violation of the above requirements for private carriage. Among those exceptions which are particularly applicable to the courier services are checks, drafts, and other types of negotiable and non-negotiable financial instruments *when shipped to, from or between financial institutions; when shipped to, from or between financial institutions;* abstracts of title, mortgages, court papers, and other similar articles; newspapers and periodicals; books and catalogues consisting of 24 or more bound pages; letters sent specifically for storage or destruction; tags, labels, stickers, signs which are primarily intended to be attached to other objects for reading; photographic material being sent by a person to a processor, and processed photographic material being *returned from the processor to the person sending the material for processing;* copy sent between an independent printer or compositor, or between printers and compositors, and proofs of the copy; sound recording films and packets of identical printed letters containing messages which are to be *sent to the public;* and computer programs suitable for direct input. See 39 CFR 310.1(7). (Attachment 17)

It is apparent that courier services bring into this country many items which are considered letters, i.e., not excepted by the above, and which should either have been brought in by representatives of the United States Postal Service or, if brought into this country by couriers, conformed to the six requirements as stated in 39 U.S.C. 601, supra.

An instance in which a courier may bring letters into the United States is under the provision which permits extremely urgent letters to be carried by private carriers (39 CFR 320.6). It is quite probable that some of the letters carried by courier services in international commerce meet the criteria set forth in the regulations.[1] The regulation's require that the outside covers or containiers of letters be marked with "Extremely Urgent" or "Private Carriage Authorized by Postal Regulations (39 CFR 320.6)" or a similar statement. In addition, the names and addresses of the carrier and the addressees of the recipients must be shown on the outside of the container. The regulations further require that records which show timely delivery must be kept and made available for inspection at the request of the Postal Service. In order to carry "extremely urgent" mail, courier services must comply with these requirements. However, designation as "extremely urgent" does not exempt the package involved from being entered in compliance with the U.S. laws and regulations regarding the entry of imported articles. We recognize the importance of timely delivery. We maintain that compliance with the law and timeliness are not mutually exclusive objectives.

There are a number of sanctions which can be imposed on those individuals and businesses which violate the United States Postal Service laws and regulations. Among those laws and sanctions are 18 U.S.C. 1693-1699 and 18 U.S.C. 1724. (Attachments 18 and 19.)

The General Statute, found at 18 U.S.C. 1693, punishes anyone carrying the mail or who "collects, receives, or carries any letter or packet contrary to law". That individual may be fined not more than $50 and/or imprisoned not more than 30 days. The statute at 18 U.S.C. 694 penalizes those having control of a conveyance regularly carrying mail for the United States Postal Service or other postal services, if that same conveyance carries mail contrary to the provisions of law. Those in control of such conveyance are subject to a $50 fine. The courier employee is also subject to criminal sanctions under 18 U.S.C. 1695, and subject to a $50 fine or imprisonment of not more than 30 days or both.

---

[1] It should be noted that the regulations presume that letters are extremely urgent if the price paid for private carriage is $3.00 or twice the applicable U.S. First Class Mail (including priority mail) postage, whichever is greater. In determining the applicable U.S. postage, a single shipment of multiple letters to a single destination is treated as a single letter. However, for a single shipment of multiple letters to multiple destinations, the cost of private carriage must be at least $3.00 per individual letter.

The statute, 18 U.S.C. 1696, also penalizes those who establish any "private service" for the purposes of delivering or conveying letters or packets contrary to the law. Such an individual can be fined $500 and/or imprisoned for not more than 6 months. That same statute, at Section 1696(b), also penalizes the individual who transmits such letters or packets to a private express service, or any agent thereof, and that individual is subject to a fine of up to $50.

It can thus be seen that the potential for courier service violation of the United States Postal Service laws is quite great, and Customs has been authorized by 39 U.S.C. 604 (attachment 20) to seize and detain "letters, bags, packets, or parcels containing letters which are being carried contrary to law on board any vessel or on any post road." 39 U.S.C. 605 (attachment 21) authorizes Customs officers to search vessels for "letters which may be on board, or which may have been conveyed contrary to law." Thus the United States Customs Service officers have a responsibility to properly examine and determine whether any letters or packets are being carried by courier services contrary to law.

It cannot be properly argued that the term "letter" applies to a limited class or kind of communications. "Letters" have been held to be anything from Christmas cards to advertising circulars addressed to particular persons or locations. See *National Association of Letter Carriers* v. *Independant Postal system, Inc.* 476 F.2d 265, (CA 10 Okla., 1972), and *Associated Third Class Mail Users* v. *United States Postal Service,* 600 F.2d 824 (App. DC, 1979).

Thus the necessity for closer regulation and inspection of courier merchandise, as well as the need for greater responsibility by the shipper/importer or his broker in describing merchandise, becomes even more apparent.

Respectfully submitted,

DAVID SERKO.

TOMPKINS & DAVIDSON,
New York, N.Y., June 11, 1982.

Re: H.R. 5170 (Representative Frenzel).

JOHN J. SALMON, Esq.
Chief Counsel, Committee on Ways and Means,
U.S. House of Representatives, Washington, D.C.

DEAR MR. SALMON: On behalf of our client, the National Customs Brokers & Forwarders Association of America, Inc. (NCBFAA), we wish to comment upon the statement submitted on June 4, 1982 by DHL Corporation on H.R. 5170, before the Subcommittee on Trade of the Committee on Ways and Means.

At page 7, DHL refers to an alleged "anti-competitive" effect created by the requirement presently contained in 19 USC § 1641 that only licensed Customs brokers may transact Customhouse business on behalf of others. DHL questions whether it is "necessary to change a system which has worked satisfactorily for decades". In fact, it was not until early 1981, in a radical departure from precedent, that the Customs Service allowed unlicensed parties to transact Customs business for others as "importers of record". In so doing, the Customs Service reversed or nullified many prior rulings which, in effect, had enforced the statutory restriction against unlicensed parties transacting Customs business for others. The "system" which, under DHL's concepts would presumably allow unfettered "competition" between licensed brokers and unlicensed parties offering Customs brokerage services in the market, was only made possible by the issuance of Customs Manual Supplement 3254. Certainly DHL does not appear to be advocating repeal of 19 USC § 1641, under which both the importing public and the Customs Service are well served by a cadre of licensed professional Customs brokers, who compete vigorously with each other for brokerage business.

DHL also indicates its concern that a courier entrusted with the international carriage of materials into the United States should retain the right to select a Customs broker to make entry. At the May 26th hearing, the NCBFAA proposed a replacement bill (based upon legislation suggested by the Customs Service at the prior hearing for Administration witnesses) under which §§ 2-4 of H.R. 5170 would be replaced by provisions requiring that the entry documentation shall be filed only by the actual owner or purchaser of the merchandise, or by a licensed Customs broker. Nothing whatsoever in the substitute proposal would in any way diminish or derogate from the right of a courier entrusted with the international carriage of the goods to retain a broker to make entry. Such right of selection is grounded upon basic principles of contract and principal-agent laws and need not be dealt with at all in the tariff laws. It is not the intention of the NCBFAA to restrict or qualify in any way the legal rights of a courier to select or retain a Customs broker and we suggest that any doubt on this score be resolved by appropriate language in the legislative history.

We ask that this letter be made a part of the record.

Sincerely,

TOMPKINS & DAVIDSON.
HARVEY A. ISAACS.

STATEMENT OF JAMES R. BERGER, PRESIDENT, WORLD COURIER, INC.

SUMMARY OF POSITION

World Courier,[1] Inc., 19 Rector Street, New York, N.Y. 10004 (212-425-5151), a leading international courier service for critically time-sensitive items, supports Section 1 of H.R. 5170 which makes certain items intangibles and thereby facilitates courier service's carriage of incoming shipments by making Customs entry unnecessary. This action will allow courier services to perform their tasks with respect to these items more efficiently and expeditiously. However, because of the past strict construction of the language of 870.10, TSUS, World Courier is unsure if the proposal will accomplish its purpose; therefore, World Courier suggests that Congress consider the use of other similar language and direct that this language be interpreted liberally in the future.

The remainder of the Bill is unnecessary and unwarranted. Its effects are to modify present law to the detriment of courier services and all U.S. companies operating in international business, and to place a "tax" on these services. The present situation whereby couriers (or their designated licensed customshouse brokers) enter items consigned to them is consistent with law and has resulted in no demonstrable problems. Indeed, we understand that the Customs Service has investigated this matter and has found no difficulties. There is no conflict between present practice and 19 U.S.C. § 1641; consignees are permitted to make entry. Notwithstanding these objections, if these provisions remain in the legislation, World Courier submits that the Bill should also provide that nominal consignees can authorize a licensed customshouse broker to make entry of goods consigned to the courier. If courier services are forced to have the ultimate consignee engage the services of a customshouse broker, the expeditious transmission of merchandise is likely to be severely hampered, and, consequently, international business transactions involving United States companies will be seriously impeded.

INTRODUCTION

Customs entry by courier services has been a subject of consideration for the last few years.[2] The problem appears to result from the uniqueness of the service couriers perform. Customs laws appear to be based on the assumption that an importer desires and arranges for items to be sent from abroad. However, courier services perform activities on behalf of the sender; it is not necessary that the recipient desires to import the item. Although the present Customs laws are not designed to function under these conditions, as discussed below, Customs has implemented procedures consistent with present law which allow courier services to operate efficiently and without problems for Customs.

Courier services expeditiously transport articles required by American businesses to operate in the international market. The spectacular growth of international courier services in the last decade demonstrates the necessity of their services. Courier services are recognized by Congress for their important function in U.S. international trade and should be encouraged and assisted.

While section 1 of the Bill facilitates the transmission of certain time-sensitive documents, the remainder of the proposal basically would prohibit expeditious carriage of all items other than intangibles, by requiring that Customs entry be made only by the ultimate consignee or his licensed designee. No public interest would be served by these provisions, but they would result in increased documentation and delays and impose a "tax" on courier services. Practical considerations underscore the need for couriers to be able to enter the item they are transporting. If such final recipient of an imported item had to make independent arrangements for each entry, it would mean more work for Customs, and the unacceptable delay of time-critical articles necessary for U.S. companies to compete internationally while, on the other hand, providing no offsetting public benefits.

---

[1] World Courier is the registered servicemark of World Courier, Inc.

[2] See "Prior History", infra.

WORLD COURIER

World Courier, Inc. is a leading international courier service and, as such, believes that its views on this matter will be useful to the members of the Ways & Means Committee. In order to meet customs requirements, World Courier's services are divided into two categories—(a) Documents, and (b) Critical Materials. In the Documents service, virtually all items carried are cleared either as intangibles under general Headnote 5, Tariff Schedules of the United States (TSUS) or as documents, business reports, records and the like which are of "no value." [3] In the Critical Materials service, which handles articles of usually tangible value, an independent customshouse broker is used to enter all shipments.[4]

World Courier has been cited as "a classic example of still another American success story." The Journal of Commerce, 2 (September 5, 1980). World Courier was started approximately twelve years ago by James R. Berger and today it and associated companies all over the world employ approximately 1,000 people.

World Courier's international transportation system responds to the time-critical needs of commerce and industry and is mainly for the most time-sensitive of all items, such as vital contracts, bids, legal papers, engineering specifications, and banking documents. It is not a service for the mass market. Articles are not consolidated to cut expenses. In this respect, it has been estimated that the average charge for each item carried by World Courier is around $180.

World Courier offers a highly specialized service to those who demand excellence and consistency. Compared to other courier services, World Courier spends considerably more money per shipment in order to decrease transportation time and enhance reliability.

World Courier's speed is exemplified by its Euro-Link service which ensures European shippers 9 a.m. delivery in the New York area (and afternoon delivery in most other U.S. cities) of documents accepted in the late afternoon all over Europe. In fact, before New York banks have opened for business with the public, they have already processed checks and other materials picked-up by World Courier in Europe as late as 6 p.m. the previous day. Shipments from South America and other parts of the world receive similar expeditious treatment.

World Courier plays an important role in international trade, particularly with repsect to extremely time-sensitive items. Its operations are designed to offer the fastest international courier service available. Clients use it for this specific reason. Accordingly, any delay resulting from additional entry procedures would be extremely detrimental to the vital commercial needs of the users of World Courier's services.

PRIOR HISTORY

This matter is now before Congress having undergone agency review which produced an outcome based on the law and facts which, we understand, the customshouse broker did not like. Customs' decision is proper, in accordance with the law and fulfills the requirements of business, and should not be modified.

In June of 1980, the U.S. Customs Service requested public comments on certain issues. These included whether a courier service, designated as the consignee of merchandise shipped to the United States, may file a formal or informal entry in its own name and whether a courier service, which is not the consignee and has not been authorized in writing by the consignee, can execute a power of attorney designating a broker to make entry. 45 *Fed. Reg.* 41565 (1980). Customs received many comments on these issues, including those of World Courier. In brief, World Courier argued that under the law, all merchandise imported into the United States is considered the property of the person to whom it is consigned. See *Top Form Brassiere Manufacturing Co., Ltd.* v. *United States,* 68 Cust. Ct. 288, 295; 342 F. Supp. 1167, 1172 (1972); 19 U.S.C. §§ 1483, 1484. Indeed, courts have construed this language as imposing on the consignee the duty to make entry of the merchandise. *Babb* v. *United States,* 252 E. 2d 702, 705 (6th Cir. 1958). Further, World Courier noted that couriers are afforded a carrier's certificate since the carrier has reasonable cause to believe the accuracy of its certification that the courier is the owner or consignee for purposes of § 1484(h), *see* C.S.D. 80-125 (1980), and that this certificate, designating the courier as the owner or consignee, allows him to make entry of the merchandise. 19 U.S.C. § 1484(h). In response to the other issue, World Courier opined that if a person is not a consignee or authorized by the consignee in writing to make entry in accordance with 19 U.S.C. § 1484(a), it cannot execute a power of attorney designationg a broker to make entry.

---

[3] As discussed, infra, all documents would necessarily be made intangibles by section 1 of the Bill.

[4] One effect of this Bill might be to improve price competition; whereas a courier service has the ability to negotiate price with a broker, a single ultimate consignee would not.

In Manual Supplement 3254, the Customs Service stated that if a courier qualified as the consignee under 19 U.S.C. § 1483, the courier service may file formal or informal entries in its own name or may, by use of a power of attorney, authorize a customshouse broker to make entry on its behalf. Customs also issued instructions to the ports for handling couriers' entries, apparently in an attempt to aid in the international transmission of correspondence and to insure consistency among the different ports.

Following the ruling, the National Customshouse Brokers and Forwarders Association of America, Inc. ("Association") corresponded with the Customs Service arguing that the Manual Supplement conflicts with 19 U.S.C. § 1641, which provided that only a duly-licensed customshouse broker is authorized to transact customs business on behalf of another. See C.S.D. 81-169 (1981). In response, Customs stated that:

"In resolving the question of a courier's right to file entries for merchandise they import, several statutory provisions must be considered. As far as Customs is concerned, *any consignee* in the normal chain of custody *is the owner and any business he transacts is for his own account* (§ 1483). For Customs to administratively hold otherwise is to negate one of the *major purposes* of sections 1843 and 1484(h), which to *allow Customs to look to the consignee and not be forced to go hunting for the actual owner.*" Id. (emphasis added).

Having encountered the foreging described results before the appropriate administrative agency, the Association has apparently sought the assistance of Congress. This resulted first in H.R. 4134, which has been superseded by H.R. 5107.

DISCUSSION OF THE PROPOSAL

World Courier supports the proposal in section 1 of H.R. 5107.

Section 1 of H.R. 5170 makes: "records, diagrams and other data with regard to any business, engineering, or exploration operation conducted outside the United State, whether on paper, cards, photographs, blueprints, tapes or other media"—an intangible under General Headnote 5, Tariff Schedules of the United States, 19 U.S.C. § 1202 (TSUS). Since this language is identical to present item 870.10, TSUS, this provision is deleted. The effect of this change is to make entry for items classified under item 870.10, TSUS unnecessary; the goods would be released after Customs is satisfied that they were properly declared. See New York Region Informational Pipeline 235 (1977). World Courier supports any change to facilitate time-sensitive international carriage. Notwithstanding this support, the following comments will address changes in language which World Courier believes will improve the Bill.

In H.R. 4134, time-sensitive correspondence would have been made an intangible. Perhaps the uncertainty of the interpretation of this language resulted in the modification of section 1 of H.R. 5170. The language of 870.10 TSUS has been construed by Customs and, accordingly, its scope is known. Although this modification provides certainty, its scope limits its applicability.

According to its legislative history, the language of 870.10 was added: ". . . to clarify a situation now causing extra work for the Bureau of the Customs and putting a burden on business firms with overseas branches. Data with regard to business, engineering, or exploration operations collected abroad and brought back to the United States for consideration by the executive of the firm may be subject to various rates of duty depending more on the type of material upon which the data are recorded than on the content or meaning. These records are not salable, their customs valuation is frequently in doubt, and delays and uncertainties are troublesome for business firms as well as for the Federal Government." See Rept. No. 318, 87th Cong., 2d Sess. 2 (1962). Customs has stated that to be classified under 870.10, TSUS, the actual professional effort in creating a blueprint must be conducted abroad, see, e.g., Bureau Service Letters 034423 (July 31, 1974); 045026 (June 10, 1974), but it is immaterial where the actual construction will be done. Bureau Service Letter 045026 (June 10, 1976). To enter under 870.10, the data must concern or pertain to business operation conducted abroad. Bureau Service Letter 043404 (no date). The items which come within this language are limited to records, diagrams and other analogous data (a model is excluded). Bureau Service Letter 058929 (April 8, 1979).

Customs' interpretations are consistent with the requirements of 870.10, TSUS as enacted, but since the apparent purpose of H.R. 5170 is to facilitate entry by couriers, the use of the strictly construed language of 870.10, TSUS, is inappropriate. Considerations such as whether the data sufficiently relate to a business operations conducted outside the United States or where the professional effort was expended should not be a limitation of this change. Indeed, professional efforts in the United States with respect to international activities should be encouraged. Therefore, we suggest deletion of the language: "conducted outside the United States." Without this restriction, couriers could return documents to the United States which were previously created in the United States, the same as if the document had been created overseas.

Further, we suggest that the legislative history of H.R. 5170 reject Customs' strict past interpretation of this particular language and encourage a future construction which effectuates the purpose of this provision—to facilitate international courier services' transportation of information required by the shipper and recipient for the performance of worldwide business activities. In this regard, "time-sensitive correspondence" may be more appropriate language to use since it would not be subject to past interpretations and could be construed to facilitate future development and growth in the international exchange of information by use of overnight courier services.[5]

WORLD COURIER OPPOSES THE REMAINDER OF THE PROPOSAL

World Courier is opposed to the remainder of the Bill. Its purpose is to deprive World Courier, a consignee on an air waybill, of its lawful right to make entry. There is no reason beneficial to the general public for taking this action. We understanding that in the past, Customs has investigated the operations of courier services, including World Courier, and has found compliance with all applicable requirements. There is no evidence of loss of revenue, fraud or smuggling. The present law permitting consignees or their authorized agent to enter merchandise has not been shown to produce problems for the Government. In fact, present practice provides Customs with a responsible party to look to should there be any problems rather than being required to locate the ultimate consignee.

A courier service is engaged for the entire carriage. In general, the ultimate consignee has no intention of being, and is not, involved in the importation. Thus, couriers, as part of their business, must be knowledgeable with the customs laws and practices of the countries in which they operate so they can expedite the transportation of articles entrusted to them. Speedy carriage, consistent with the laws of the countries in which they operate, is the essence of a courier's service.

In introducing H.R. 4134, Mr. Frenzel stated that this Bill attempts to clarify a probable inequity in Customs law that has resulted from a recent ruling by the Customs Service that allows courier services to file informal or formal customs entries in their own name. Cong. Rec., H. 4311 (July 14, 1981). Mr. Frenzel stated that under this ruling, it may be possible for nearly anyone to provide broker services as a consignee, without becoming licensed, merely by showing an easily obtained piece of paper to Customs officials. Id.

World Courier respectfully disagrees. As customs has stated, where a courier service is a consignee, it is entitled to make entry or hire a licensed broker to perform this duty. This ability is required for practical reasons. In undertaking carriage, the courier is agreeing to move the merchandise through Customs and to the addressee. This is not a case of couriers acting in competition with a customshouse broker; the courier has an interest in entering the goods. It is unlikely that an individual without an interest in the transaction would be named as a consignee to make entry. Also, a carrier's certificate is not properly issued to just anyone. *See* C.S.D. 80-125 (1980).

Another stated purpose of these provisions is to prevent erosion of the current system of providing customs clearance by licensed customshouse brokers. It is alleged that by the use of brokers, entries are far more likely to be lawful, and that the new system would require Customs to inspect more entries than it presently has the capability of handling, and would, thus, make it more difficult to "keep drugs, criminal and other illegal materials out of the country." Cong. Rec. at H. 4311.

---

[5] The Postal Service's definition of time-sensitive mail might be used as a model for defining this term. See 19 CFR § 320.

World Courier respectfully disagrees with these statements also. There is neither proof of a problem with current practice nor any indication that the Customs Service thinks any problems exist. We believe Customs has studied this matter because of the Association's past assertions.[6] Brokers are not responsible for inspection of entries, and they are not licensed to prevent drug smuggling and other illegal activities. The mere involvement of a broker in the transaction does not warrant its propriety. Most importantly, the system presently in effect is working without the alleged difficulties and, thus, there is no need or reason to warrant its modification.

Assuming, arguendo, the truth of the allegations, they could be rectified by allowing courier services to engage licensed brokers to make entry. This would alleviate the alleged difficulties with present practice without severely interfering with couriers' present services. However, as presently drafted, the Bill does not allow courier services, as nominal consignees, to employ a licensed customshouse broker. Instead, the ultimate consignee would have to authorize a licensed broker in writing to act as his agent and make entry. See generally, 19 C.F.R. § 111. As can easily be seen, this could cause significant delays in the expeditious transmission of vital articles by courier services, and would thereby significantly obstruct and inhibit international activities to the detriment of United States businesses. For this reason, we suggest that, if amendments similar to the remainder of the Bill are enacted, all consignees be authorized to nominate licensed customshouse brokers to make entry.[7] Similarly, a carrier's certificate should be issued to such nominal consignees for use by the broker; without this document, entry could be further delayed.

In light of the foregoing, and notwithstanding World Courier's objections to these provisions, it offers the following comments on the remaining sections of the Bill.

SECTIONS 2 AND 4

These sections, which are logically considered together, prohibit a nominal consignee from transacting customs business, relating to commercial importations on behalf of any other person unless licensed as a customshouse broker. At present, the law does not distinguish between consignees, but merely imposes an obligation on the consignee to make entry. See 19 U.S.C. § 1484 (a)(1); *Babb* v. *United States*, 242 F. 2d 702, 705 (6th Cir. 1958). This Bill changes this and defines a nominal consignee as any person" who is neither the ultimate consignee nor the purchaser of the merchandise, or otherwise has not [sic] beneficial interest in the merchandise", and then prohibits such individual from making entry of such merchandise.

The proposal's prohibition of a nominal consignee from making entry would also prevent him from appointing anyone, including a licensed customshouse broker, to act on his behalf. Under the proposal, the courier would have to contact the addressee[8] of each package and obtain their written power of attorney to engage the services of a licensed customshouse broker. This could cause delays in entry of such magnitude that the effect would be to prevent courier services from carrying merchandise (other than intangibles) into the United States. This would defeat the reasons for use of a courier service by imposing a time-consuming process for the entry of all items other than intangibles. Further, there is no reason to involve the recipient in entry procedures of an item sent to him by use of a professional transportation service. Therefore, if these sections are retained, we urge that the proposal be amended to allow nominal consignees to authorize a licensed customshouse broker to make entry of the goods. This would be the minimum action required to allow courier services to continue to operate and fulfill the needs of the international business community.[9]

---

[6] We understand that Customs reviewed the practice of courier services, including World Courier, and that this resulted in a memorandum noting no problems. We have been told that this memorandum is not publicly available.

[7] We note that entry would have to be made in the broker's name, since the nominal consignee cannot make entry under the proposal.

[8] Ultimate consignee is nowhere defined. Presumably, under the Bill, anyone who has any beneficial interest in the merchandise is not a nominal consignee and thus can make entry in his name. The scope of this provision is unknown.

[9] In this regard, these provisions of this Bill could also have a significant effect on United States/Canadian shipments. We understand that it has been the practice for someone other than the importer to engage a broker on some truck shipments from Canada to the United States. The Bill would stop this practice and disrupt this trade. This is an important consideration which should not be overlooked.

SECTION 3

This provision limits the issuance of carrier's certificates. This document is important to couriers and brokers since an original air waybill or a bill of lading, a certified duplicate of such, or a carrier's certificate is required as evidence of the right to make entry. 19 C.F.R. § 141.11(a); see, also, New York Region Informational Pipeline, 623 (1981).

As presently written, this section of the Bill would place a duty on the carrier to issue a carrier's certificate only where it has knowledge that the person is either the actual owner or the consignee of the merchandise or a duly authorized agent of either. There is no requirement that the consignee be of any specific type. Therefore, this proposal basically codifies present existing Customs practice. In C.S.D. 80-125 (January 4, 1980) Customs stated that: ". . . It is our opinion that a carrier who, in a carrier's certificate, certifies a company or individual "to be the owner or consignee" of the articles within the purview of section 1484(h), Tariff Act of 1930, must have a reasonable cause to believe in the accuracy of the certification."

In that Section 3 of H.R. 5170 does nothing more than codify this position, premitting issuance of a carrier's certificate to a nominal consignee, this portion of the Bill is acceptable. If, however, the proposal is designed to do more, including preventing the issuance of carrier's certificates to consignees on an air waybill or bill of lading, World Courier believes that it is unwarranted and impractical. Since the original airway or bill of lading generally must be surrendered to the carrier upon receipt of the goods, without a carrier's certificate, a certified duplicate air waybill would be required.[10] It could be time-consuming to obtain this document and, thus, further adversely affect the time-sensitive services World Courier provides.

THE ADMINISTRATION'S POSITION

It is our understanding that based on its testimony to the Committee, the Administration does not propose to modify sections 1 and 3 of the Bill, but does not propose to eliminate sections 2 and 4 and replace them with language similar to the following:

"Current Section 1484(a)(2)(B) of the Tariff Act of 1930 is redesignated, Section 1484(a)(2)(B)(1) and a new Section 1484(a)(2)(B)(2) is added as follows: 'Notwithstanding any other provision of law, the documentation required by paragraph (1)(B) of this subsection that a commercial shipment shall be filed only by the titleholder, purchaser or ultimate consignee of the merchandise or by a person holding a valid license under the provisions of section 641 of the Act.' "

Although not as objectionable as the Bill's initial language, since it would avoid delays at the time the goods arrived and entered the United States, there are still difficulties with this proposal. This language requires the employment of a broker merely to file the entry summary; the nominal consignee could still make entry and file the documentation therefor. The courier service would have the right to make entry and would be forced to make entry to ensure expeditious transportation. However, to file the entry summary, the courier service would have to have the ultimate consignee file the entry summary or authorize a broker to perform this task. The latter would require engaging the services of a broker and paying his fee, when it is unnecessary. Also, this requirement might result in a delay in the filing of the entry summary, which not only could produce administrative problems for Customs, but would place couriers in the illogical position of having their duty to file an entry summary depend on the ultimate consignee who has no liability to Customs to perform this action. See 19 CFR § 142.15. Therefore, under this proposal, the Bill must allow nominal consignees to authorize licensed brokers to file the entry summary. To place the nominal consignee at the mercy of the ultimate consignee clearly would be unfair.

THE ASSOCIATION'S PROPOSAL

The Association, in documents submitted to the Committee on May 26, 1982, alleged adverse consequences from present practice and suggested a further revision of the Bill, which would have basically the same effect as the other proposals. The foregoing, we believe, addresses both the claims of the Association and the consequences of their proposal.

Although the Association alleges a "very serious problem" from the Manual Supplement, it provides no evidence thereof. The Association's assertions that the present practice conflicts with 19 U.S.C. § 1641 is similarly not shown. The Association's suggested amendments would seriously impede a courier service's carriage of articles World Courier requests that if the Association's position is followed, Congress also authorizes courier services to engage the services of a licensed customshouse broker to avoid adversely affecting present courier service operations.

---

[10] If a carrier had to check the status of each consignee on an air waybill or bill of lading before issuing a carrier's certificate, the issuance of such documents would be severely inhibited.

CONCLUSION

World Courier is in favor of any action to facilitate international carriage by courier services of time-sensitive items. Courier services are vital to United States business and should be recognized as such; they should not be discouraged. In this respect, Section 1 of H.R. 5071 is commended.

The remainder of the proposal is opposed as unnecessary. There are no problems to correct with respect to present law and practice. These provisions would severely hamper the international operations of United States businesses and courier services, particularly if the Bill is not amended to allow nominal consignees to authorize a licensed broker to make entry. For these reasons, only Section 1 of H.R. 5107 should receive further consideration.

H.R. 4155

To suspend for four years the duty on double-head latch needles

DEPARTMENT OF STATE

We are responding to your request for the views of the Department of State on H.R. 4155, a bill providing duty free entry for double-head latch needles.

The Department of State has no objection to the enactment of the proposed legislation.

We understand that double-head latch needles are no longer produced in the United States and knitted goods manufacturers now rely on imports to meet their requirements.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

DEPARTMENT OF THE TREASURY

This is in reply to your request for the views of the Department of the Treasury concerning H.R. 4155, a bill "To suspend for four years the duty on double-head latch needles." The Department of the Treasury supports the enactment of this bill. The lowering or suspension of duties on imports is consistent with the Administration's free trade policy.

The Department, however, recommends several technical changes. The Customs Regulations were amended in September, 1979, to provided a two-part process for the entry of imported merchandise. The first part, called the entry, equates to the release of the imported merchandise. The second part is the entry summary and equates to the filing of the entry documentation up to 10 days after entry. Accordingly, for this bill and for all proposed legislation concerning imports where an effective date applies to consumption entries and warehouse withdrawals, the standard wording and punctuation should be "articles entered, or withdrawn from warehouse for consumption, * * *."

In addition, it would be helpful to have a 15 to 30 day period between the date a bill in enacted and its effective date. This will permit the U.S. Customs Service to notify its field offices and the public of the details of the new law. Specifically, customs brokers who use computers to prepare entry documentation require time to update their data bases with the new information. When new laws are enacted changing the duty status of imported merchandise the U.S. Customs Service invariably receives complaints from the public regarding the lack of timely notification.

Finally, the Department notes that the duty rate column in H.R. 4155 is not complete.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 4155, a bill: "to suspend for four years the duty on double-head latch needles."

If enacted, H.R. 4155 would suspend the duty on double-head latch needles until June 30, 1985, a period of three years. This amendment to the Tariff Schedules of the United States (TSUS) would take effect upon enactment.

Under existing law, latch needles for knitting machines are provided for in TSUS item 670.58. The column 1 rate of duty is 41 cents per 1,000 plus 14.2 percent ad valorem. The LDDC rate is 10 percent ad valorem. The column 1 duty is scheduled to be reduced in stages to 10 percent ad valorem by January 1, 1987. This item is eligible for duty-free treatment under the U.S. Generalized System of Preferences.

The Department has no objection to enactment of H.R. 4155, provided the language of the bill assures that only double-head latch needles are covered.

Since there is no U.S. production, imports are the sole source of U.S. supply, or apparent consumption, of double-head latch needles or "links" needles as they are known in the trade. Suspension of the duty would provide a cost savings to the U.S. textile and apparel industry.

There would be an average annual loss of approximately $425,000 in tariff revenues. This estimate takes into consideration the effect of the staged duty reductions for this tariff item.

The bill should be amended to clarify that imports dutiable under both the MFN and LDDC rates would be eligible for temporary duty-free treatment. It is further suggested that the product description for the proposed new item be amended to read "double-headed latch needles (provided for in item 670.58, part 4E, schedule 6)."

Enactment of H.R. 4155 would have no impact on the revenues to, or administrative costs of, this Department.

We have been advised by the Office of Management and Budget that they have no objection to the submission of our letter to the Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 4155, if enacted, would permit the duty-free entry of double-headed latch needles on or before June 30, 1985. This amendment to the Traiff Schedules of the United States (TSUS) would take effect upon enactment, and terminate on or before June 30, 1985.

DESCRIPTION AND USES

Double-headed latch needles, or "links" needles as they are called in that trade, are used in the manufacture of machine knitted fabric. These needles consist of a shank with a hook at each end. They can be readily distinguished from other hooked machine needles by the freely swinging latches attached to the shank which close the hooks. Variations within this configuration are necessary to accomdate differences in machinery, yarn or thread employed, or type of fabric desired. These variations can occur in numerous critical characteristics, such as shape of the hooks or length and straightness of the shaft.

Links needles are used in three types of knitting machines: flat bed machines for making sweaters, collars, and cuffs; certain large diameter (25 inches to 30 inches) circular machines, also used in making sweaters; and certain small diameter (2 inches to 4 inches) circular machines for making socks. The later category accounts for approximately 75 percent of links needle consumption in the United States.

Links needles in circular machines are housed in slots and operated by cams. When the needle reaches up (or across in the case of flat bed machines) the latch is in the open position, the hook engages the yarn and pulls down a loop as the needle descends. The needle then rises through the loop and engages the yarn again. As it pulls this new loop down, the old loop pushes the latch closed and slides over the latch and off the hook as the needle continues its descent. When the needle rises again the loop pushes the latch open and the process is repeated, creating a chain of loops.

Needles used in modern knitting machines can perform several operations a second. This can result in a buildup of heat in the needles which can deform or even melt sythetic fibers. Reduction of heat buildup, therefore, is a prime concern, as is the avoidance of friction wear. The needle must not bend, and the latch must move freely through tens of thousands of movements. Needles must be uniform in order to produce a uniform product. This uniformity must be accomplished by component tolerances which cannot exceed 0.010 inch.

The manufacturing process for needles generally includes a series of up to 30 hand and machine operations, including pressing, swaging, tempering, polishing, and straightening. Production machinery is, for the most part, not interchangeable for different kinds of needles and generally requires extensive retooling for each new type of production run.

TARIFF TREATMENT

Double-headed latch needles enter under TSUS item 670.58 as latch needles for knitting machines. The column 1 rate of duty [1] applicable to imports under TSUS item 670.58 is 50 cents each plus 15 percent ad valorem.

---

[1] The rates of duty in rate duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist counties and areas enumerated in general head-note 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

The MTN staged tariff reductions for this item are as follows:

[Cents per thousand: percent ad valorem]

Item	January 1—						
	1981	1982	1983	1984	1985	1986	1987
670.58	50¢ + 15%.	41¢ + 14.2%.	33¢ + 13.3%.	25¢ + 12.5%.	16¢ + 11.7%.	8¢ + 10.8%	10.0%

Note.—The 1980 column 1 ad valorem equivalent is 15.3 percent.

The column 2 rate of duty[2] is $2.00 per 1,000 plus 60 percent ad valorem. No "LDDC" rate is provided for this item.[3]

Articles classified under TSUS item 670.58 are eligible for duty-free treatment under the Generalized System of Preferences (GSP)[4] when imported from designated beneficiary countries. During 1980, such imports totaled $553,000. Links needles constituted only a negligible share of this total.

On August 7, 1978, the Torrington Company of Torrington, Connecticut, filed a petition with the U.S. International Trade Commission under section 201(d)(1) of the Trade Act of 1974, alleging that machine needles were being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry. The Commission made a unanimous negative determination on February 7, 1979.

STRUCTURE OF THE DOMESTIC INDUSTRY

There has been no U.S. production of latch needles since 1980, when the Torrington Co. divested its needle operations. By May of that year, Torrington had converted its Walhalla, South Carolina, plant, the only domestic source of latch needles, to bail bearing manufacturing. At approximately the same time, Exeltor, Inc. of Canada acquired Torrington's Needle Division. This division inlcuded Torrington's only other source of latch needles, a plant in Bedford, Quebec. The needles imported from the Bedford facility are marketed by Exeltor Corp. of Greensboro, North Carolina.

U.S. IMPORTS AND APPARENT CONSUMPTION

Since there are no U.S. production and exports, imports are the sole source of U.S. supply, or apparent consumption, of double-headed latch needles.

KNITTING MACHINE LATCH NEEDLES (TSUS ITEM 670.58): U.S. IMPORTS FOR CONSUMPTION, 1976–80

Year	Quantity (million units)	Value (million dollars)
1976	115	14.6
1977	133	16.9
1978	148	22.4
1979	137	22.8
1980	128	19.8

Source: Compiled from official statistics of the U.S. Department of Commerce.

---

[2] Rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[3] The rates of duty in rate of duty of column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are applicable to products of the least developed developing countries designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in colum numbered 1 applies.

[4] The GSP under Title V of the Trade Act of 1974 provides duty-free treatment of specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 14, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985, unless modified by the President or terminated.

Industry sources estimate that in 1980 about 15 percent of these, or 19 million needles, were of the double-headed variety.

In 1980, the leading sources of U.S. imports of the links needles were also generally the leaders in world production of latch needles. West Garmany, Japan, and Canada account for some 85 percent of U.S. imports. The largest single U.S. importer is believed to be Grosz-Beckert USA of Charlotte, North Carolina. This is the U.S. subsidiary of a West German concern, the largest needle manufacturer in the world. As noted, Exeltor continues to import from Torrington's former plant in Canada.

POTENTIAL ANNUAL LOSS OF REVENUE

If this legislation became effective for the period September 1, 1981, through June 30, 1985, and imports of links needles remain at their 1980 level, there would be an average annual loss of $427,000 in tariff revenues. This estimate takes into consideration the effect of the staged duty reductions for this tariff item.

TECHNICAL COMMENTS

In order to accomplish the stated purpose of the bill, the bill should be amended by inserting the term "Free" in the first duty rate column to the immediate right of the product description for the proposed new item. This would provide for the duty-free treatment of imports from MFN countries. Either the term "Free" or "No change" should be inserted in the second duty rate column, depending on whether it is the sponsor's intention to maintain the existing tariff treatment of column 2 imports or suspend that duty as well.

It is further suggested that the product description for the proposed new item be amended to read "Double-headed latch needles (provided for in item 670.58, part 4E, schedule 6)."

H.R. 4480

To extend through June 30, 1985, the suspension of import duties on synthetic rutile

DEPARTMENT OF STATE

We are responding to your request for the views of the Department of State on H.R. 4480, a bill providing duty free entry for synthetic rutile.

The Department of State has no objection to the enactment of the proposed legislation. It would continue the duty free entry for synthetic rutile provided in PL 96-467, effective October 17, 1980, for an additional period ending June 30, 1985. The duty applications to imports of such rutile was initially suspended by PL 93-470, effective October 26, 1974, on the basis of a determination that it would remove an unnecessary raw material cost for domestic processors and would assist United States firms in obtaining needed supplies on the world market thereby helping to maintain production and employment opportunity in domestic manufacturing, particularly in the paint and pigment industry. We are informed the considerations underlying the initial duty suspension continue to be valid.

The Office of Management and Budget advises that, from the standpoint of the administrations' program, there is no objection to the submission of this report.

DEPARTMENT OF THE TREASURY

This is in reply to your request for the views of the Department of the Treasury concerning the following bills: H.R. 4494, "To apply duty-free treatment to Fourdrinier wires suitable for use in capacitor papermaking machines"; and H.R. 4480, "To extend through June 30, 1985, the suspension of import duties on synthetic rutile."

The Department of the Treasury does not object to the purposes of the above cited bills. The Department, however, would like to offer the following technical comments:

H.R. 4494: Under current law Fourdrinier wires suitable for use in any papermaking machine are classified under item 642.30. The bill would place the language of current item 642.31 for Fourdrinier wires "suitable for use in capacitor papermaking machines". Capacitor paper, which is used as an electrical insulator, is produced from highly refined pulp stock by a papermaking machine fitted with Fourdrinier wires having a mesh of at least 200 wires per linear inch. It is to be emphasized that in making capacitor paper it is the wire that is distinctive, not the papermaking machine. Accordingly, the text of proposed item 642.31 is misleading in that "capacitor papermaking machines" do not exist; instead it is the Fourdrinier wire having a mesh of at least 200 wires per linear inch which makes the machines suitable for making capacitor paper. This fact, coupled with the fact that commercial invoices for Fourdrinier wires will specify only the mesh of the wire and not the type of machine on which the wire is to be used or the type of paper the wire is designed to make, will create significant administrative difficulties for the U.S. Customs Service in the enforcement of proposed item 642.31. It is therefore recommended that the text of proposed item 642.31 be amended to read "With a mesh of 200 or more wires per linear inch". The qualifying language "suitable for use in papermaking machines" in the proposed superior heading should be retained because wires are often imported with a mesh in excess of 300 wires per linear inch. Such wires, however, are not suitable for use in papermaking, but generally are used as filters. The Department further recommends that the title of the bill be amended to read "To apply dury-free treatment to Fourdrinier wires suitable for use in making capacitor paper."

The Department also notes that the current column I rate of duty for item 642.31 is 21.3 percent ad val. Proposed item 642.32 would increase the column I duty rate to 21.9 percent ad val. with respect to "other" Fourdrinier wires. In view of the fact that the title of the bill only refers to the dury-free treatment of certain Fourdrinier wires, the Department assumes that the rate increase in proposed item 642.32 is unintended and that the bill will be amended to retain the current rate.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 4480, if enacted, would amend subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) to extend the existing suspension of duties on synthetic rutile. The article affected is covered by TSUS item 911.25.

"Duties or import taxes" on synthetic rutile have been suspended almost continuously since October 26, 1974.[1] The current suspension expires on June 30, 1982. The bill will continue duty-free treatment for this article until June 30, 1985.

DESCRIPTION AND USES

Sysnthetic rutile is derived from ilmenite through several processes of upgrading which involve substantial chemical change. Ilmenite, an ore of titanium, contains about 55 percent titanium dioxide. The upgrading processes result in a product with a titanium dioxide content approaching that of natural rutile, also an ore of titanium, which contains about 96 percent titanium dioxide. Since natural rutile is much more costly than ilmenite, increasing quantities of ilmenite are being upgraded to produce synthetic rutile.

The foremost use for rutile, natural and synthetic, is to make titanium dioxide pigments; but it is also the necessary raw material for making sponge metal and is the preferred material for coating welding rods.

TARIFF TREATMENT

Synthetic rutile is classified under TSUS item 603.70, a residual provision for other metal-bearing materials of a type commonly used for the extraction of metal or as a basis for the manufacture of chemical compounds. The column 1 rate of duty for this item is currently suspended by TSUS item 911.25.

The rates of duty provided for item 603.70 are under column 1,[2] 6.9 percent ad valorem; under LDDC,[3] 5 percent ad valorem; and under column 2,[4] 30 percent ad valorem. The future staged rates under column 1 for this article and are as follows: 1982, 6.6 percent ad valorem; 1983, 6.3 percent ad valorem; 1984, 5.9 percent ad valorem; 1985, 5.6 percent ad valorem; 1986, 5.3 percent ad valorem; 1987, 5.0 percent ad valorem.

Item 603.70 is designated as eligible for preferential treatment by all beneficiary developing countries under the GSP.[5]

STRUCTURE OF THE DOMESTIC INDUSTRY

Kerr-McGee Chemical Corp suspended operations at its synthetic rutile plant at Mobile, Alabama on March 1, 1978 to investigate process and design modification. In late 1979, it was announced that this synthetic rutile plant would resume operations at design capacity of 110,000 tons per year; by mid-1980 the plant was supplying the raw material requirements for Kerr-McGee's pigment plant in Hamilton, Mississippi of 60,000 tons per year, leaving 50,000 available for sale. Total employment at the synthetic rutile plant was to be 113 people. No other domestic producer is known.

---

[1] Public Law No. 93-470, sec. 1, 88 Stat. 1422.

[2] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

[3] The rates of duty in rate of duty column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are applicable to products of the least developed developing countries designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 applies.

[4] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[5] The GSP under title V of the Trade Act of 1974 provides duty-free treatment of specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985 unless modified by the President or terminated.

DOMESTIC PRODUCTION

Official production data are not available from the U.S. Bureau of Mines. After its opening in 1977, the plant of the only domestic producer ran at slightly more than half capacity until March 1, 1978; was closed during much of 1978 and early 1979, and operated at its capacity of 110,000 tons per year in late 1979 and 1980.

U.S. IMPORTS

Imports of synthetic rutile in 1976-80 are shown in the table below.

SYNTHETIC RUTILE: U.S. IMPORTS FOR CONSUMPTION BY COUNTRY, 1976-80

Source	1976	1977	1978	1979	1980
Quantity (short tons):					
Australia	43,866	17,351	23,546	72,217	60,963
Japan	24,108	3,691	675	1,243	6,590
India	11,011	5,500	11,011	22,134	10,471
China T				22,471	238
All other	4,437	19	356		2
Total	83,422	26,561	35,588	118,065	78,264
Value (1,000 dollars):					
Australia	6,955	2,103	3,771	11,799	9,050
Japan	2,733	682	142	278	2,077
India	1,668	750	1,393	3,190	1,675
China T				3,838	69
All other	996	6	69		4
Total	12,352	3,541	5,375	19,105	12,875

Source: Department of Commerce (FT-246).

U.S. EXPORTS

Exports of synthetic rutile are not separately reported in official U.S. statistics. They are, however, considered to be negligible.

APPARENT U.S. CONSUMPTION

Domestic consumption in 1976, prior to the opening of Kerr-McGee's plant, and 1978, when the plant was closed through much of the year, was approximately equal to imports. Domestic consumption in 1977, 1979, and 1980 was approximately equal to U.S. production plus imports.

POTENTIAL ANNUAL LOSS OF REVENUE

Revenue loss based on 1980 imports of synthetic rutile, valued at $12,874,000, is estimated at approximately $888,306 per year based on a 6.9 percent ad valorem duty. Kerr-McGee's return to production and the staged MTN reductions in duty rate should result in a decrease of revenue loss.

THE U.S. TRADE REPRESENTATIVE

I am writing in response to your request for the views and recommendations of the Office of the United States Trade Representative on H.R. 4480, a Bill to extend through June 30, 1985, the suspension of import duties on synthetic rutile.

While our Office normally favors reciprocal tariff reductions, we recognize the advantages of extending the duty suspension to the domestic industry using rutile and consumers of products derived from rutile. Because of this, we would not object to the enactment of H.R. 4480.

We have been informed by the Office of Management and Budget that, from the standpoint of the Administration's legislative program, there is no objection to the presentation of these views.

Statement of Hon. John J. Duncan, a Representative in Congress From the State of Tennessee

There are compelling reasons why Congress should act favorably on H.R. 4480, a bill that would change the expiration date of the duty suspension on synthetic rutile from June 30, 1982, to June 30, 1985. The clear merits of the bill have prompted me to join with Congressman James Howard from New Jersey in cosponsoring it.

This bill is very important to the U.S. titanium dioxide pigment industry, which needs rutile, whether synthetic or natural, as the primary raw material for the production of titanium dioxide. Most of the white pigments used today (for paint, plastics, paper, etc.) are derived from titanium dioxide, since lead-based whitening agents have generally been discontinued on the basis of health-related considerations.

The U.S. titanium pigment industry employs some 4,600 individuals. Many of those jobs are dependent on the passage of H.R. 4480, because the residual tariff of 6.6% would otherwise go into effect, thereby increasing the industry's raw material costs at a time of serious economic strain. I am confident the subcommittee on Trade recognizes that such a policy would be harmful and fundamentally unsound.

It should also be noted that the U.S. titanium pigment industry is susceptible to increasing import pressures. Thus, imports of titanium pigment have increased by 19 percent since 1979, and by 28 percent since 1980. It seems self-evident that we in the Congress should not undercut the ability of the domestic industry to compete with imports. Instead, the duty suspension on synthetic rutile should be continued so that the U.S. industry can maintain its competitiveness against imports of the finished product—titanium dioxide pigment.

While continued suspension of the duty would forestall unnecessary hardship for the U.S. titanium pigment industry and its employees, it would have no adverse effect on any other U.S. industry. This is readily illustrated by the fact that the duty suspension in effect since 1974 did not discourage the construction and start-up of a synthetic rutile facility in Mobile, Alabama, during that period. Moreover, imports of synthetic rutile have declined by some 76,715 short tons since 1979, a drop of about 65 percent, as shown in the Summary of Import Data set forth below.

A persuasive argument can be made that synthetic rutile should be made duty-free on a permanent basis, inasmuch as natural rutile has permanent duty-free status under TSUS 601.51. Natural rutile and synthetic rutile are, after all, interchangeable. Nevertheless, I believe the Congress should continue with the temporary suspension approach reflected in H.R. 4480 so that the residual duty can be used as a bargaining chip in future tariff negotiations with our trading partners. In that connection, the Subcommittee recently approved an extension of tariff negotiating authority under section 124 of the Trade Act of 1974.

For the foregoing reasons, I urge the Subcommittee to give expeditious and favorable consideration to this bill, particularly in light of the Commerce Department's statement of nonopposition on behalf of the Administration, a position consistently held by successive Administrations since 1974.

SUMMARY OF IMPORT DATA

[Short tons]

Year	Synthetic rutile	Natural rutile	Titanium pigment
1979	118,066	164,934	104,968
1980	78,263	203,737	97,590
1981	41,351	169,649	134,906

Sources: Bureau of Mines. U.S. International Trade Commission.

Statement of Gulf & Western Natural Resources Group

SUMMARY

The Statement of Gulf & Western Natural Resources Group registers strong support for H.R. 4480, which would extend the existing duty suspension on synthetic rutile until June 30, 1985. The bill is important to U.S. producers of white pigment made from titanium dioxide, which is made from synthetic rutile, as well as natural rutile.

The Statement points out that passage of H.R. 4480 would prevent a 6.6 percent increase in the cost of synthetic rutile, a raw material cost increase that the U.S. titanium dioxide industry can ill-afford at a time when the industry is in the throes of an economic slump due to weak demand and increased import competition. Passage of the bill, therefore, would help the U.S. titanium dioxide pigment industry to maintain employment levels (currently at about 4,600) and to withstand import pressures. The Statement explains that passage of the bill would not adversely affect any U.S. industry, since imports of synthetic rutile have fallen by 65 percent since 1979.

Natural rutile is duty-free under the Tariff Schedules. Synthetic rutile, which is interchangeable with natural rutile, should, therefore, also be duty-free. Furthermore, synthetic rutile is duty-free under the Generalized System of Preferences. Finally, the Statement points out that successive Administrations, including the current one, have expressed their nonopposition to the suspension of the synthetic rutile duty.

STATEMENT

Gulf & Western Natural Resources Group, a division of Gulf & Western Industries, Inc., strongly supports passage of H.R. 4480, a bill to extend until June 30, 1985, the existing duty suspension on imports of synthetic rutile. This bill is important to producers of titanium dioxide pigment, because synthetic rutile, as well as natural rutile, is the raw material from which titanium dioxide is made. In turn, titanium dioxide is an indispensable compound used in the production of most whitening agents (pigments) found in paint, paper and plastics. Because of health considerations, titanium dioxide has generally replaced lead for this purpose. Gulf & Western Natural Resources Group, which is headquartered in Nashville, Tennessee, has titanium dioxide plants in Ashtabula, Ohio, and Gloucester City, New Jersey.

The existing duty suspension on synthetic rutile expires on June 30 of this year. Unless that suspension is renewed, the cost of synthetic rutile would be increased by 6.6 percent at a time when the condition of the U.S. titanium dioxide pigment industry is already in a slump, largely because of general economic conditions, including the depression in the housing industry, an important consumer of white paint produced from titanium dioxide.

Apart from the current sluggishness in the economy, the U.S. titanium pigment industry has been under heavy import pressure. The enactment of H.R. 4480 would help us withstand that import pressure, whereas the addition of a 6.6 percent duty to our costs would only weaken our competitive position. In that regard imports of titanium pigment have increased from 104,968 short tons in 1979 to 124,906 short tons in 1981. Titanium pigment imports now account for about 15 percent of the U.S. market, roughly twice the market share in 1979. According to the Bureau of Mines, employment in the U.S. titanium pigment industry numbered some 4,600 in 1981. In our view, enactment of H.R. 4480 would make an important contribution in helping the U.S. industry to maintain that employment level.

It is clear that enactment of H.R. 4480 would not adversely affect any U.S. industry, inasmuch as imports of synthetic rutile have dropped by 65 percent since 1979, as shown in the following figures obtained from the International Trade Commission:

Imports of synthetic rutile

	Short tons
1979	118,066
1980	78,263
1981	41,351

Natural rutile, the primary alternative raw material for titanium dioxide, is duty-free under TSUS 601.51. Because synthetic rutile and natural rutile are interchangeable, it would appear logical that synthetic rutile should also be duty-free. However, Congress was not in a position to make that determination when the Tariff Schedules of the United States were adopted in 1963, for the simple reason that synthetic rutile had not yet been developed as a commercial article. Consequently, synthetic rutile falls into a basket tariff category (TSUS 603.70).

Synthetic rutile is subject to duty-free treatment under the Generalized System of Preferences. India is probably the only beneficiary developing country that exports synthetic rutile. The principal source for U.S. imports of synthetic rutile, as well as natural rutile, is Australia, a country which is not eligible for GSP treatment.

In summary, we believe the national interest would be well served by favorable action on H.R. 4480, because (1) it would prevent a significant increase in the raw material cost of the domestic titanium dioxide pigment industry, which is already experiencing economic difficulties from market weakness and import competition; (2) it would help maintain jobs in the domestic titanium dioxide pigment industry; (3) it would not adversely affect any other domestic industry, since synthetic rutile imports have been declining; and (4) it would equalize the tariff treatment as between natural and synthetic rutile. In addition, the Administration has expressed its nonopposition to the continued duty suspension on synthetic rutile, as has been the case with previous Administrations.

KERR-MCGEE CORP.,
Washington, D.C., May 28, 1982.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade,
Ways and Means Committee, Washington, D.C.

DEAR CONGRESSMAN GIBBONS: Pursuant to your request during the recent hearing on H.R. 4480 (suspension of duty on synthetic rutile), Kerr-McGee Chemical Corporation (Kerr-McGee) is pleased to provide corrections to data submitted by proponents to your Subcommittee on March 15, 1982, included in the report entitled, "Background Statement in support of a Further Three-Year Temporary Suspension of Tariff Duty on Synthetic Rutile (H.R. 4480)."

As you are aware, Kerr-McGee opposes H.R. 4480 for the reasons set forth by Mr. William B. Hayes and Congressman Jack Edwards at the hearing on May 26, 1982. In reviewing the data submitted by those favoring H.R. 4480, it appears that although this statement is dated March 15, 1982, the analysis is based upon 1977 information. For example, on page two, reason No. 1, it is noted that there is a "limited world supply" of rutile/rutile substitute. While this may have been true in 1977, it should be noted that the present situation is very different. In Kerr-McGee's testimony, it was noted that four new sources of rutile and rutile substitutes have entered the market for a combined world capacity in excess of one million tons. When compared to the worldwide demand of only 600,000 tons, it can hardly be argued that the worldwide supply is limited.

In addition, reason No. 3, page three, notes that the domestic industry demand for synthetic rutile "far exceeds the limited commercial production of synthetic rutile in the United States at this time." Once again, while this may have been accurate in 1977, it certainly is not accurate today. The fact is, Kerr-McGee's 45,000 to 50,000 tons available for the domestic market exceeds 1981 imports of synthetic rutile which amounted to 41,354 tons, according to Bureau of Census data. As noted at the hearing, Kerr-McGee is in a position to expand its sales of synthetic rutile domestically if provided the opportunity.

Finally, we are enclosing new appendices Nos. 2 and 3 containing current (1981) data. We believe it is relevant for the Subcommittee to review the current data as it will show an increase in the chloride process. Synthetic rutile or natural rutile is required (except in the DuPont system) to utilize this process. The change in appendix 3 notes that the United States production of synthetic rutile is not shut in. Indeed, as noted at the hearing, Kerr-McGee is producing in excess of 110,000 short tons per year (100,000 metric tons) at its Mobile, Alabama facility.

If you, or other members of your Subcommittee, have additional questions regarding the foregoing, we shall be happy to meet with you or members of your staff.

Sincerely,

PETER M. FRANK,
Manager, Washington Office.

DOMESTIC PLANT CAPACITIES, 1980 TiO_2 PIGMENTS

[Short tons]

	Chloride process	Sulfate process	Total
American Cyanamid, Savannah, Ga.	40,000	53,000	
Total			93,000
Dupont:			
Antioch, Calif	35,000		
Edgemoor, Del	167,000		

DOMESTIC PLANT CAPACITIES, 1980 TIO$_2$ PIGMENTS—Continued

[Short tons]

	Chloride process	Sulfate process	Total
Delisle, Mass	150,000		
New Johnsonville, Tenn	228,000		
Total			580,000
Gulf & Western:			
Ashtabula, Ohio	30,000		
Glouchester City, N.J		44,000	
Total			74,000
Kerr-McGee, Hamilton, Miss	56,000		
Total			56,000
NL Industries, Sayreville, N.J		100,000	
Total			100,000
SCM:			
Baltimore, Md	32,000	50,000	
Ashtabula, Ohio	42,000		
Total			124,000
Total	780,000	247,000	1,027,000

Source U.S. Bureau of Mines Minerals Year Book, 1980.

Worldwide synthetic rutile capacity

[Metric tons; estimated 1981]

Australia	60,000
India	20,000
Japan	48,000
Taiwan	30,000
United States	100,000
Total	258,000

Source: Industry estimates and U.S. Bureau of Mines data.

Note: To convert metric tons to short tons, add 10 percent.

STATEMENT OF SAMUEL FRIEDMAN, ESQ., VICE PRESIDENT AND GENERAL COUNSEL, CHEMICAL DIVISION, SCM CORP.

SCM Corporation, a United States producer of titanium dioxide pigments, strongly supports H.R. 4480 and asks that the further three year temporary suspension of tariff duty on synthetic rutile be favorably considered. The suspension appears as Item 911.25 of the Appendix to the Tariff Schedules of the United States (TSUS). SCM has titanium dioxide pigment production facilities at Ashtabula, Ohio and Baltimore, Maryland.

I

Since the duty suspension for synthetic rutile was first proposed in 1973 there have been developed sound reasons for this suspension and these have become established by repeated review by the Congress and by the government agencies which are interested in titanium dioxide feedstock. We consider it fair to say also that all objections to the duty suspension have also been advanced during the course of the legislative consideration and reconsideration.

II

In some ways this is an even less opportune time to add a 6.6 percent duty to a titanium dioxide feedstock and thus place domestic pigment producers at a greater competitive disadvantage. In 1979 SCM brought a dumping proceeding against importations from Europe of titanium dioxide pigments. The Department of Commerce found the following substantial dumping margins:

TIO$_2$ DUMPING MARGINS PER PAGE 13 OF USITC PUBLICATION 1009, NOVEMBER, 1979

[In percent]

Country and firm	Range of LTFV margins	Weight average margin on all sales compared
Belgium:		
Bayer Antwerpen, N.V.	0.3–17.7	8.9
Kronos S.A./N.V.	1.4–14.1	10.1
France:		
Thann et Mulhouse	17.4–21.4	18.4
Tioxide, S.A.	14.3–26.6	19.9
West Germany:		
Bayer, AG	.5–22.4	.1
Kronos Titan, GmbH	2.6–24.9	12.5
Pigment-Chemie, GmbH	4.6–21.6	5.1
United Kingdom:		
BTP Tioxide, Ltd	12.4–47.6	27.7
LaPorte Industries, Ltd	14.5–43.3	32.4

No dumping duties were entered. Even though substantial margins existed the ITC did not find injury from the imports because of the dominant position of DuPont in the U.S. market.

Since 1979 imports have increased about 20 percent and imports as a percentage of apparent consumption have increased about 25 percent (from 12.5 to 15.6 percent).

IMPORT MARKET PENETRATION—TITANIUM DIOXIDE PIGMENTS

[Short tons of pigment]

	Imports	Apparent consumption	Import (percentage)
1979	104,986	836,426	12.5
1980	97,590	740,799	13.2
1981	124,906	803,251	15.6

Although all imports do not come from countries identified as having less than fair value imports, less than fair value imports accounted for something over two-thirds of imports in the last three years of the period in the 1979 study.

If a 6.6 percent duty were to be imposed on any feedstock, including synthetic rutile, the domestic titanium dioxide producers would be placed at a greater disadvantage in competition with the increasing volume of imports—and in market competition generally.

III

While we are convinced the impostition of a duty would hurt the U.S. titanium dioxide pigment industry, we are extremely skeptical that the duty would be of help to Kerr-McGee. This is because natural rutile and slag are plentiful and available at advantageous prices and for long-term contracts. Therefore we conclude that the duty would result in no additional sales of no higher prices for their product.

IV

SCM Corporation accordingly urges prompt and favorable legislative action on H.R. 4480. The considerations involved were summarized in a joint statement by Gulf and Western, SCM Corporation and Associated Minerals when the duty suspension was last considered. That joint statement, dated January 8, 1979, is attached for reference.

Attachment.

STATEMENT IN SUPPORT OF A FURTHER 3-YEAR TEMPORARY SUSPENSION OF TARIFF DUTY ON SYNTHETIC RUTILE

The 7.5 percent ad valorem tariff duty on synthetic rutile was suspended through June 30, 1977, by Public Law 93-470, which became effective October 26, 1974. In the 95th Congress the duty suspension was continued through June 30, 1979. The suspension appears as Item 911.25 of the Appendix to the Tariff Schedules of the United States (TSUS).

Developments since the previous duty suspension was passed support a further suspension of duty on synthetic rutile through June 30, 1982. This can be accomplished by substituting the date "6/30/82" for the present expiration date of "6/30/79" in TSUS Item 911.25.

The original suspension was recommended by the Committee on Ways and Means in H.R. Rep. No. 93-973, 93d Congress, 2d Sess., which reported as follows: "Your committee believes that temporary suspension of the duty on synthetic rutile would aid the United States in obtaining a greater share of the limited world supply, thereby helping to maintain production and employment levels in domestic manufacturing, particularly in the paint and pigment industries. Temporary removal of the duty, as provided under the bill, would also serve domestic consumer and ecological considerations."

In the continuation of the duty suspension, the Senate Report, No. 95-419, 95th Congress, 1st Sess., stated as follows: "Enactment . . . would continue the elimination of an unnecessary cost of a raw material, synthetic rutile, which is not domestically produced in sufficient quantities and for which there is a growing demand."

The original, basic reasons for the duty suspension continue to be present. Rutile, as supplemented by synthetic rutile, continues to be the raw material upon which the chloride process production of titanium dioxide depends. This dependency extends to all domestic manufacturers using the chloride process except for Dupont, which has developed a chloride process to utilize raw materials with lower TiO_2 enrichments. The other process is the sulfate, which uses source materials [1] having lower percentages of titanium dioxide, all in chemical bond with iron. In recent years no new sulfate facilities have been constructed in the United States, and none are expected to be constructed, because the sulfate process produces high levels of pollutants.

There may be more reasons now than before to avoid an unnecessary cost of production. Inflation is of great current concern. Since the last consideration of the duty suspension on synthetic rutile, the finished product, titanium dioxide pigments, has experienced sharp competition from European imports. Any addition to the cost of production places domestic manufacturers at a further disadvantage in meeting competition from imports.

At the time the previous duty suspension was considered, the Kerr-McGee Chemical Company had started production of synthetic rutile in the only domestic facility for this product, which is located in Mobile, Alabama. Production from the plant was to be for internal use by Kerr-McGee. Kerr-McGee has terminated production and present plans for the use of the facility are not known.

It is anomalous to have a duty on synthetic rutile. First, it is functionally and chemically [2] the same as natural rutile, which has no duty. Second, titanium bearing slag has been imported free of duty since 1951. The slag has a 70 percent TiO_2 content and is produced from a 37 percent TiO_2 ilmenite by smelting. By Customs letter dated June 22, 1951, TD 52764, this material "obtained from an ore consisting chiefly of ilmenite and hematite by processes producing no chemical change not incidental to the removal of iron from the ore" is classifiable as a crude mineral and is entitled to entry free of duty. Although there are differences in the ore and the process, both processes involve substantial chemical change to arrive at a much higher TiO_2 content and the duty-free treatment accorded titanium slag should logically apply as well to synthetic rutile.

When it becomes appropriate for the Congress to reconsider the concept of "concentrates" of an ore, which are traditionally free of duty, it would be logical to consider synthetic rutile as such a concentrate. Had synthetic rutile been an article of commerce when the present tariff schedules were considered, we are confident that it would have been classified as a concentrate of titanium ore.

---

[1] These materials are listed at page 4 of this memorandum.

[2] Except for the nature and amount of the impurities.

A recent address on "Titanium Minerals and Their Markets" [3] lists the following titanium raw materials. The last two are required for the chloride process (other than DuPont).

Raw material:	[Percent of TiO_2]
Canadian ilmenite	37
Norwegian ilmenite	44
South African ilmenite	49
West Australia ilmenite (Capel)	55
West Australia ilmenite (Eneabba)	60
Indian ilmenite (Quilon)	62
Titania slag (Sorel)	70
Titania slag (Richards Bay)	85
Leucoxene	89
Synthetic rutile (Capel, W.A.)	93
Rutile	95

Of the above raw materials, synthetic rutile is the only one subject to duty. Some of the tariff anomalies of this treatment are discussed in Appendix 1.

We respectfully submit that the reasons for the original duty suspension continue to be present and relevant and that developments since the last legislative action support the further extension of the duty suspension. The following additional appendices are attached: Appendix 1, Tariff Anomalies in Dutying Synthetic Rutile; Appendix 2, Domestic Plant Capacities, 1977; Appendix 3, Worldwide Synthetic Rutile Capacity; and Appendix 4, Glossary of Terms.

[Appendix 1]

TARIFF ANOMALIES IN DUTYING SYNTHETIC RUTILE

A tariff rate of 7.5 percent for synthetic rutile represents a glaring anomaly in the Tariff Schedules because titanium dioxide pigments—the finished product derived from both natural and synthetic rutile—are dutiable at the same 7.5 percent rate under TSUS Item 473.70. Moreover, the duty rate for this basic industrial source material is substantially higher than the duty rate for synthetic rutile of gemstone quality—a luxury article—which is classified under TSUS Item 520.71 at 4 percent.

The reason for this anomaly is the fact that synthetic rutile, as a source material for titanium dioxide, was not an article of trade when the Tariff Schedules were adopted.[1] In the Customs Simplification Act of 1954 Congress directed the Tariff Commission to undertake a comprehensive study of the tariff status of imported articles and to submit a revision of the pertinent laws which would, among other things, eliminate anomalies and illogical results in the classification of articles. The result was the Tariff Classification Study which was submitted to the responsible legislative committees in 1960. Since synthetic rutile was not an article of trade when that study was performed, there was obviously no discernible anomaly at that time and consequently no opportunity for the Tariff Commission to make a curative revision.

The Tariff Schedules set forth in the Commission's Study were subsequently adopted by the Tariff Classification Act of 1962, becoming effective upon proclamation by the President in 1963. At the time of the adoption of the Tariff Schedules there was one known processed source material for titanium dioxide, apart from natural rutile and ilmenite. That source material was titanium slag, obtained from the smelting of a particular kind of ilmenite, which produces a titanium bearing source material containing by weight over 40 percent titanium and over 70 percent titanium dioxide. Congress accorded such titanium slag duty-free status under TSUS Item 603.52. Although synthetic rutile is considerably higher in titanium and titanium dioxide content, it is not technically a "slag."

We are confident that, had synthetic rutile been an article of trade when the tariff structure was reviewed in formulating the current Tariff Schedules, synthetic rutile would have been accorded the same duty-free treatment. See TSUS Item 601.51 ("Titanium ore (including ilmenite, ilmenite sand, rutile, and rutile sand")).

---

[3] W. W. Bartle, Quebec Iron & Titanium Corporation, Paper No. 111, 17th Annual Conference of Metallurgists, Montreal, August 30, 1978.

[1] Synthetic rutile began to be used as a source material for titanium dioxide on a commercial basis about 1971.

[Appendix 2]

DOMESTIC PLANT CAPACITIES, 1977 TiO_2 PIGMENTS

[Short tons]

	Chloride process	Sulfate process	Total
American Cyanamid, Savannah, Ga	50,000	50,000	
Total			100,000
Dupont:			
Antioch, Calif	30,000		
Edge Moor, Del	160,000		
New Johnsonville, Tenn	235,000		
Total			425,000
Gulf & Western Natural Resources Group (formerly New Jersey Zinc):			
Ashtabula, Ohio	30,000		
Gloucester City, N.J		42,000	
Total			72,000
Kerr-McGee Chemical Co. Hamilton, Miss	50,000		
Total			
NL Industries:			
Sayreville, N.J		100,000	
St. Louis, Mo		40,000	
Total			140,000
SCM Corp./chemical metallurgical division:			
Baltimore, Md	30,000	55,000	
Ashtabula, Ohio	42,000		
Total			127,000
Total	627,000	287,000	914,000

Source: U.S. Bureau of Mines.

[Appendix 3]

Worldwide synthetic rutile capacity (est. 1977)

[Metric tons]

Australia (1975)	35,000
India (1975)	20,000
Japan (1975)	48,000
Taiwan (1976)[1]	30,000
Malaysia [1]	55,000
United States[1]	100,000
Total	288,000

[1] Now shut down.

Source: Industry estimates and U.S. Bureau of Mines data.

[Appendix 4]

GLOSSARY OF TERMS

The following glossary of terms may be helpful.

Natural rutile

Rutile (natural TiO_2) is a reddish-brown to black mineral commonly found in sand deposits in conjunction with zircon and ilmenite. Commercial concentrates of rutile contain 94-96 percent TiO_2 The present major commercial source in the world is Australia. Australian production is not expected to increase substantially in part because the profitability of rutile depends on the advantageous sale of ilmenite and zircon with which it occurs; and in part because of environmental objections to digging up the beach sands in which the ilmenite, zircon and rutile occur.

Synthetic rutile

Synthetic rutile (beneficiated ilmenite) is a "concentrate" which is prepared by extracting most of the iron and minor impurities from ilmenite. The iron and other products are discarded and the percentage of titanium dioxide is upgraded, usually to 90-95 plus percent titanium dioxide (by weight over 50 percent titanium). The percentage of enrichment is a matter of economics rather than a set amount.

Ilmenite

Ilmenite is a black mineral composed of iron, titanium and oxygen. It contains a significantly lower TiO_2 content (45-70 percent) than does natural or synthetic rutile.

Titanium dixoide

TiO_2 accounts for virtually all white pigments in use today. These pigments are indispensable to the paint, paper, rubber, and plastic industries. Domestic production of titanium dioxide pigment in 1977 amounted to about $630 millon. The products for which titanium dioxide is a basic ingredient will be valued at many times this figure and are manufactured in each of the states. There are no practical substitutes for TiO_2 as a white pigment. TiO_2 is inert and nontoxic and eliminates the hazards in lead and other heavy metal sources of pigmentation. Titanium dioxide is used throughout this memorandum to mean titanium dioxide pigments.

Titanium metal

Natural rutile has been the basic starting material for the production of titanium metal, but synthetic rutile has been used with equal success. Titanium is particularly important for military and commercial aircraft. An intermediate step in the processing of rutile yields the source material $TiOCl_2$) from which titanium sponge is produced. The production capability to TiO_2 thus provides an important potential source of titanium metal, and may be important if that strategic metal comes suddenly into great demand.

TiO_2 production processes

Rutile (and synthetic rutile) can be processed efficiently and relatively cleanly into commercial TiO_2 pigments a chloride process in which the TiO_2 is produced in a closed chlorine loop and the waste products are therefore limited to the relatively small amount of the rutile concentrate which is not TiO_2. (Even though this process is "relatively clean" in pollution costs, as compared with other processes, the pollution control expenses can be significant as compared with costs in countries less advanced in environmental controls).

Economically proven processes for the production of TiO_2 from ilmenite involve the production of polluting wastes (iron sulfates or chlorides in substantially larger amounts than from rutile. The chloride process produces pollutants on the order of 300,000 tons a year, the bulk of which are from the processing of ilmenite, so that total pollutants, including iron sulfates from the sulfate process, are about a million tons a year.

H.R. 4494

To apply duty-free treatment to Fourdrinier wires suitable for use in capacitor papermaking machines

DEPARTMENT OF STATE

We are responding to your request for the views of the Department of State on H.R. 4494, a bill providing duty free entry for Fourdrinier wires for use in capacitor paper making machines.

The Department of State has no objection to the enactment of the proposed legislation. We understand the wires of interest are not manufactured in the United States. In such circumstances the obligation to pay duty imposes an unnecessary cost burden on domestic paper manufacturers and we believe it should be removed.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

DEPARTMENT OF THE TREASURY

This is in reply to your request for the views of the Department of the Treasury concerning the following bills: H.R. 4494, "To apply duty-free treatment to Fourdrinier wires suitable for use in capacitor papermaking machines"; and H.R. 4480, "To extend through June 30, 1985, the suspension of import duties on synthetic rutile."

The Department of the Treasury does not object to the purposes of the above cited bills. The Department, however, would like to offer the following technical comments:

H.R. 4494: Under current law Fourdrinier wires suitable for use in any papermaking machine are classified under item 642.30. The bill would place the language of current item 642.30 in a superior heading and create a breakout intem 642.31 for Fourdrinier wires "suitable for use in capacitor papermaking machines". Capacitor paper, which is used as an electrical insulator, is produced from highly refined pulp stock by a papermaking machine fitted with Fourdrinier wires having a mesh of at least 200 wires per linear inch. It is to be emphasized that in making capacitor paper it is the wire that is distinctive, not the papermaking machine. Accordingly, the text of proposed item 642.31 is misleading in that "capacitor papermaking machines" do not exist; instead it is the Fourdrinier wire having a mesh of at least 200 wires per linear inch which makes the machines suitable for making capacitor paper. This fact, coupled with the fact that commercial invoices for Fourdrinier wires will specify only the mesh of the wire and not the type of machine on which the wire is to be used or the type of paper the wire is designed to make, will create significant administrative difficulties for the U.S. Customs Service in the enforcement of proposed item 642.31. It is therefore recomended that the text of proposed item 642.31 be amended to read "With a mesh of 200 or more wires per linear inch". The qualifying language "suitable for use in papermaking machines" is the proposed superior heading should be retained because wires are often imported with a mesh in excess of 300 wires per linear inch. Such wires, however, are not suitable for use in papermaking, but generally are used as filters. The Department further recommends that the title of the bill be amended to read "To apply duty-free treatment to Fourdrinier wires suitable for use in making capacitor paper."

The Department also notes that the current column I rate of duty for item 642.31 is 21.3 percent *ad val.* Proposed item 642.32 would increase the column I duty rate to 21.9 percent *ad val.* with respect to the bill only refers to the duty-free treatment of certain Fourdrinier wires, the Department assumes that the rate increase is proposed item 642.32 in unintended and that the bill will be amended to retain the current rate.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 4494, a bill: "To apply duty-free treatment to Fourdrinier wires suitable for use in capacitor papermaking machines."

If enacted, H.R. 4494 would amend subpart B of part 3 of schedule 6 of the Tariff Schedule of the United States (TSUS), item 642.30, to provide permanent duty-free status for Fourdrinier wires, seamed or not seamed, suitable for use in papermaking machines.

Current column 1 treatment for all Fourdrinier wire is 19.4 percent *ad valorem*. This rate is scheduled to decrease incrementally to 10.0 percent in 1987. This item also is included among those eligible for duty-free treatment under the U.S. Generalized System of Preferences (GSP).

The Department would have no objection to enactment of the proposed legislation provided certain technical changes are made.

This legislation is intended to grant duty-free treatment for Fourdrinier wire suitable for use in capacitor papermaking machines while continuing existing rates of duty and scheduled staged reductions on other Fourdrinier wire.

There are no domestic producers of Fourdrinier wire used in capacitor papermaking machines, although there have been in the past. There are numerous domestic producers of Fourdrinier wire used in papermaking machines other than the capacitor variety. Spokesmen for these producers oppose the bill as currently drafted because they believe it could result in some Fourdrinier wire entering duty-free without subsequently being used in capacitor papermaking machines.

As presently written the bill does not specifically provide for the continuation of current treatment of other Fourdrinier wire or for the MTN reductions to which the United States has committed itself. This omission could result in claims for compensation under the General Agreement on Tariffs and Trade (GATT).

We propose that the language in the bill be changed to read as follows:

"Fourdrinier wire, seamed or not seamed, suitable for use in papermaking machines (whether or not parts of, or fitted or attached to, such machines):

[Percent]

"Item 642.31—With 240 or more, wires to the linear, inch	Free	Free	75
"Item 642.31—Other	19.4	10	75

"Sec. 2. The rate of duty in column numbered 1 for item 642.32 of the Tariff Schedules of the United States (19 U.S.C. 1202) (as added by Section 1) shall be subject to any staged rate reductions proclaimed by the President before the date of the enactment of this Act.

"Sec. 3. The provisions of this Act shall become effective on or after the date of its enactment."

The above changes should be made for the following reasons. Fourdrinier wire suitable for use in capacitor papermaking machines may more efficiently be classified according to physical characteristics than end use. This type of Fourdrinier wire is distinguishable from others by its warp mesh count which is much higher than that of other Fourdrinier wire. This language would also correct two typographical errors in the legislation, namely in the column 1 rate of duty for item 642.32 (19.4% rather than 21.9%) and in the superior heading, where the word immediately preceding "fitted" should read "or". Also the changes alleviate concerns regarding violation of our GATT bindings.

Revenue loss from enactment of H.R. 4494 would be approximately $125,000 based on 1980 estimated import levels and duty rates. However, the annual revenue would gradually be reduced through 1987 as the duty rate is lowered under the concessions of the MTN.

Enactment of H.R. 4494 would have no impact on the revenues to or administrative costs of this Department.

We have been advised by the Office of Management and Budget that they have no objection to the submission of our letter to the Congress from the standpoint of the Administration's program.

U.S. International Trade Commission

PURPOSE OF THE LEGISLATION

H.R. 4494, if enacted, would insert a new item (642.31) in the Tariff Schedules of the United States (TSUS) providing duty-free treatment for fourdrinier wire suitable for use in capacitor papermaking machines and classified under item 642.30. Other fourdrinier wire would continue to be dutiable under new item 642.32. This amendment would take effect on the date of the enactment of this bill.

DESCRIPTION AND USES

Fourdrinier wire suitable for use capacitor papermaking machines is, like other types of metal fourdrinier wire, a finely woven wire screen that has been welded into a continuous belt. It is made on looms, in a variety of weaves, of either stainless steel or bronze, and is fitted on the rolls of a paper machine. In the papermaking process, water and fibers are deposited on this screen and as the water partially drains off, the remaining fibers interlace and form a moist web of paper fiber of near-uniform consistency.

Fourdrinier wire used for making capacitor paper is distinguished from other types of fourdrinier wire by its mesh count (the number of wire in warp (lengthwise wire) of shute (crosswire wire) per linear inch). It has a warp mesh count of approximately 240 to 246 mesh per linear inch, whereas four-drinier wire used for producing most other types of paper has a warp mesh count of 60 to 70 mesh per linear inch. In general, higher mesh counts are used for producing finer quality paper.

Capacitor paper serves as an insulating component in a capacitor, keeping stored electrical charges contained. It is very thin and of uniform thickness (.00025 inch to .001 inch), and it is impervious to electrical currents. Its shute range from 72 to 76 mesh per linear inch. It is vital to the electronics industry, the electrical motor industry, and various other industries.

TARIFF TREATMENT

Fourdrinier wire is classified in TSUS item 642.30. It has a column 1 duty rate[1] of 21.3 percent ad valorem, a Least Developed Developing Country (LDDC) rate[2] of 10 percent ad valorem, and a column 2 (Non-MFN) rate[3] of 75 percent ad valorem.

The column 1 rate became effective January 1, 1981, and is the second in a series of progressive duty reductions negotiated in the Tokyo round of MTN. These reductions will occur annually until 1987 when the final rate of 10 percent ad valorem is reached. TSUS item 642.30 is eligible for preferential treatment under the Generalized System of Preferences (GSP),[4] and therefore duty-free treatment is provided to designated beneficiary developing countries if requested.

U.S. IMPORTS AND EXPORTS

U.S. imports classifiable in TSUS item 642.3020, which includes fourdrinier wire suitable for use capacitor papermaking machines, amounted to 433,758 square feet ($1.8 million) in 1980.[5] The principal sources for imports of this Tariff Schedules of the United States Annotated (TSUSA) item were West Germany and France, which accounted for 75 and 9 percent of imports of this TSUSA item, respectively. West Germany and France are believed to be the major foreign producers of fourdrinier wire suitable for use in capacitor papermaking machines,[6] with Wangner the major West German producer and Martel Ctala and Toiles Franck the major French producers. However, because of the lack of sufficient statistical detail, the quantity and value of imports of fourdrinier wire suitable for use in capacitor papermaking machines is unknown, although it does not exceed the quantity and value of imports of

---

[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

[2] The rates of duty in rate of duty column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are applicable to products of the least developed developing countries designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 applies.

[3] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[4] The GSP under Title V of the Trade Act of 1974 provides duty-free treatment of specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985, unless modified by the President or terminated.

[5] TSUSA item 642.3020 includes al fourdrinier wire of other than plastic. Prior to January 1, 1980, all types of fourdrinier wire were classified in the now-deleted TSUSA item 642.3000.

[6] There is one producer of fourdrinier wire suitable for use in capacitor papermaking machines in Scotland; however, imports of TSUSA item 642.3020 from the United Kingdom were 672 square feet, valued at $3,847, in 1980.

TSUSA item 642.3020 from West Germany and France in 1980 (364,033 square feet valued at $1.5 million).

Because there are no domestic producers of fourdrinier wire suitable for use in capacitor papermaking machines, there are no U.S. exports of this item.

STRUCTURE OF THE DOMESTIC INDUSTRY

The domestic fourdrinier wire industry consists of 11 producers employing approximately 2,000 workers. However, none produce the type of fourdrinier wire used in capacitor papermaking machines.

There are two domestic consumers of fourdrinier wire for capacitor papermaking machines. They are the Schweitzer Division of Kimberly-Clark Corporation, with facilities in Pennsylvania and Massachusetts, and Crocker Technical Papers, located in Massachusetts.

DOMESTIC PRODUCTION

There is no domestic production of fourdrinier wires for use in capacitor papermaking machines.

APPARENT U.S. CONSUMPTION

Because there are no domestic producers of fourdrinier wire suitable for use in capacitor papermaking machines, U.S. consumption consists entirely of imports. However, because of the lack of sufficient statistical detail, the quantity and value of imports of this type of fourdrinier wire are unknown, although it is known not to exceed the 1980 quantity and value of imports from West German and France of TSUSA item 642.3020 (364,033 square feet valued at $1.5 million). It is officially estimated that domestic consumption for this type of fourdrinier wire is approximately $600,000 per year, of 35 to 45 percent of imports of TSUSA item 642.3020.

POTENTIAL ANNUAL LOSS (OR GAIN) OF REVENUE

The annual loss of customs revenue resulting from duty-free treatment for fourdrinier wires suitable for use in capacitor papermaking machines would be approximately $125,000, based on 1980 estimated import levels and duty rates. However, the annual revenue would gradually be reduced through 1987 as the duty rate is lowered under the concessions of the MTN.

TECHNICAL COMMENTS

This legislation is intended to grant duty-free treatment for fourdrinier wires suitable for use in capacitor papermaking machines while continuing existing rates of duty and scheduled staged reductions on other fourdrinier wire. However, as presently written the bill does not specifically provide for the continuation of current treatment of other fourdrinier wire or for the MTN reductions to which the United States has committed itself, an omission which could result in claims for compensation under the General Agreement on Tariffs and Trade. Thus, it is suggested that the following paragraph be added to the bill:

Sec. 2. The rates of duty in column numbered 1 for item 642.32 of the Tariff Schedules of the United States (19 U.S.C. 1202) (as added by Section 1) shall be subject to any staged rate reductions proclaimed by the President before the date of the enactment of this Act."

Section 2 could then be renumbered Section 3.

It is also recommended that a change in the proposed article description be made and that certain typographical errors be corrected. Fourdrinier wire suitable for use in capacitor papermaking machines may more efficiently be classified according to physical characteristics than end use; this type of fourdrinier wire is distinguishable from others by it warp mesh count, which is much higher than that of other fourdrinier wire. The following language is proposed: Fourdrinier wires, seamed or not seamed, suitable for use in papermaking machines (whether or not parts of, or fitted or attached to, such machines):

[Percent]

642.31—With 240 or more wires to the linear inch	Free	10	75
642.32—Other	21.3	10	75

This language would also correct two typographical errors in the legislation, namely in the column 1 rate of duty for item 642.32 (21.3 percent rather than 21.9 percent) and in the superior heading, where the word immediately preceding "fitted" should read "or".

DEPARTMENT OF LABOR

This is in response to your request for the views of the Department of Labor on H.R. 4494, a bill "[t]o apply duty-free treatment to Fourdrinier wires suitable for use in capacitor papermaking machines."

The Department of Labor does not oppose enactment of this bill.

Fourdrinier wires are finely woven wire screens essential to the operation of papermaking machines. As fibers are deposited on the screen, they interlace to form a moist web of paper fiber of nearly uniform consistency. Two domestic firms utilize a specialized type of Fourdrinier wire in the production of capacitor paper which is extremely fine and requires wire with a very high mesh content of over 200 meshes per lineal inch.

While Fourdrinier wire is produced in the United States, the Department of Labor has been informed that there is no domestic production of wire with the mesh content necessary to produce capacitor paper. Therefore, applying duty-free treatment to this item should not affect domestic employment. However, item 642.31 of the Tariff Schedules of the United States which would be established by the bill should specify the number of meshes per lineal inch rather than referring to Fourdrinier wire '[s]uitable for use in capacitor papermaking machines" because items of this type are generally identified by physical characteristics and not by end use. Moreover, the bill appears to contain a typographical error insofar as it provides for a 21.9 percent *ad valorem* duty on other Fourdrinier wire whereas the current is 21.3 percent ad valorem.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

H.R. 4501

To temporarily suspend the duty on bulk fresh carrots from August 15 to February 15 of each year

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 4501, if enacted, would suspend the column 1 rate of duty[1] on imports of fresh or chilled carrots in immediate containers each holding more than 100 pounds, provided for under item 135.42 of the Tariff Schedules of the United States (TSUS).[2] It would be limited to entries for consumption made between August 15 in any year through the following February 15. This duty suspension would become effective upon enactment and terminate June 30, 1985, unless further extended. The legislation would thus suspend in part, for three years, the effect of section 508 of the Trade Agreements Act of 1979 upon those fresh carrots four inches long or longer which are entered in bulk. The legislation would have no effect on the column 2 rate of duty.[3]

BACKGROUND

The proposed amendment to the TSUS was prompted by the enactment of section 508 of the Trade Agreements Act of 1979. This section altered the U.S. tariff structure applicable to imports of all fresh carrots by assessing a specific (per pound) rate of duty rather than an ad valorem (percentage) rate of duty.[4] The United States Trade Representative stated that the purpose of section 508 was to "harmonize" U.S. and Canadian duties on carrots.[5]

The U.S. duty is assessed continuously throughout the year and the same rate is in effect at all U.S. ports of entry. The Canadian tariff applicable to U.S. exports of fresh carrots to Canada is a compound rate of duty consisting of both a specific and an ad valorem component. These rates are not, however, assessed continuously throughout the year. They are generally suspended for most weeks in each year in the more heavily populated central region (Region II) of Canada. Further, when the Canadian rates of duty are in effect, their application varies at different Canadian ports of entry.[6]

During an investigation by the Canadian Tariff Board, the Canadian Horticultural Council (CHC) proposed several increases in the rates applicable to fresh carrots (which Canada had already bound in the GATT); e.g., an ad valorem equivalent rate of 20 percent plus a packaging duty of 10 percent ad valorem for baby carrots in retail pre-packs. Ultimately, the Board recommendation of an increase in tariff protection for baby carrots, at a somewhat lower level, was enacted by Canada in 1979. However, the Board's recommendation for year-round duty-free entry for bulk carrots was not adopted. Thus it appears that changes in the Canadian tariff structure applicable to carrots subsequent to the Article XXVIII negotiations more likely resulted from a desire for increased tariff protection than from an explicit desire for "harmonization" of rates with the United States.[7]

---

[1] Column 1 rates of duty are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries are areas enumerated in general headnote 3(f) of the TSUS. However, these rates would not apply to products of developing countries where such articles are eligible for preferential tariff treatment provided under the Generalized Systems of Preferences or under the "LDDC" rate of duty column.

[2] Similar bills have previously been introduced in the Senate (S. 1588, 97th Congress) and in the House of Representatives (H.R. 4075, 97th Congress).

[3] Column 2 rates of duty apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[4] This alternation to the TSUS ran counter to the general tariff philosophy followed by U.S. negotiators in recent tariff negotiations; i.e., to offset the effects of inflation the United States converted numerous specific rates of duty to ad valorem rates in the 1979 negotiations. See, United States International Trade Commission, Conversion of Specific and Compound Rates of Duty to Ad Valorem Rates (Inv. no. 332-99) (USITC Pub. No. 896, July 1978).

[5] "In negotiations with Canada, the United States agreed to harmonize the duty on carrots." Trade Agreements Act of 1979: Statements of Administrative Action, H. Doc. No. 96-153 (pt. II), 96th Cong., 1st Sess. 389, 493, 499 (June 19, 1979).

[6] Canada is divided into three regions for assessment of duties on agricultural and horticultural products. Thus, imports from the United States may be dutiable at one Canadian port of entry, but duty-free at another, on the same entry date. The designation of the time periods during which the duty rates shall apply, within the framework of the Canadian Customs Tariff, is determined by the Minister of National Revenue on the advice of the Canadian Horticultural Council (CHC), a national trade association. Separate determinations are made for imports entering each of the three Canadian customs regions, as follows: Region I—Maritime Provinces; Region II—Quebec Province and Ontario Province east of Thunder Bay; Region III—Points west of Thunder Bay, Ontario.

The determination of the 40-week period, which is the maximum period allowable for collecting duties, is based on an April 1 to March 31 fiscal year. In practice, during recent years, the dutiable periods have been less than the 40 week maximum in each fiscal year. (See Appendix A.)

It should be noted that the increase in the U.S. duty on carrots is believed to be the only duty increase, in the Trade Agreements Act of 1979, for which advice was not sought from the International Trade Commission pursuant to the advisory process required by the Trade Act of 1974.[8] We also note that, contrary to the legislative history upon which section 508 is predicated, Canada did not "reduce its rates" on carrots as a result of these negotiations or otherwise.[9]

Because dirt or other foreign matter must be included in the calculation of a specific rate of duty,[10] importation of fresh carrots in bulk (i.e., harvested directly into pallet boxes or field trucks without further processing) is less advantageous for the U.S. importer than under an ad valorum rate since the impact of dirt or other foreign matter in the assessment of a specific duty can be significant. On the other hand, an ad valorem rate tends to be more restrictive of imports of fresh carrots when greater value is added (e.g., washing, grading, packaging for retail sale, etc.) in the country of exportation (e.g., Canada or Mexico); and a specific rate of duty is less restrictive for Canadian carrot exports with greater value-added prices.

DESCRIPTION AND USES

The cultivated carrot is a biennial plant grown as an annual for its elongated, edible root. There are different varieties of commercially grown carrots, varying in length and diameter. The carrot shape in greatest demand for fresh market sales is a relatively slender, straight or slightly tapered carrot that is generally 6 inches to 9 inches in length.[11] Carrots which do not meet the ideal shape or established grade standards for fresh market sales may go to processing outlets (e.g., freezers or canners), or are unmarketed. Some varieties of carrots, which are usually larger in diameter, are grown specifically for processing outlets.

Fresh carrots are traded internationally principally for fresh market sales, but some are also traded for processing. The principal uses for fresh-market carrots are in salads or snacks or pressed for juice, or cooked in homes for use in stews, soups, and side dishes. The principal uses of processed carrots, including frozen carrots, by both institutional users and home consumers, are in stews, soups, and side dishes. There is little or no significant difference between the types and varieties of fresh carrots grown in the United States and those grown in Canada or Mexico, the two leading foreign suppliers of fresh carrots to the United States.

The article subject to this legislation are fresh or chilled carrots 4 inches in length or over in immediate containers each holding more than 100 pounds. Some bulk fresh carrots are believed to be packaged in bags or boxes of 25 pounds, 50 pounds, or 80 pounds each, among other possible net weights per unit; loose bulk carrots may also be entered in tote-bins (or pallet boxes) or in open or closed trucks containing net weights ranging from several hundred pounds to several tons. Fresh carrots 4 inches in length or over are typically imported in 1-pound, 2-pound, or 5-

---

[7] Canada, Tariff Board, Report by the Tariff Board Pursuant to the Inquiry Ordered by the Minister of Finance Respecting Fresh and Processed Fruits and Vegetables, vol. 1 (pt. I) at 109 and App. B; vol. 1 (pt. II) at 229-234 (Ref. No. 152) (Ottawa, 1977). The Department of Agriculture has reported a similar view of the nature of the bilateral negotiations with Canada. See, USDA, F.A.S., Horticultural and Tropical Products Div., Memorandum: Changes in the Canadian Tariff Structure for Imported Horticultural Commodities (December 18, 1979).

[8] H. REP. NO. 96-317, 96th Cong., 1st Sess. 125 (1979); S. REP. NO. 96-249, 96th Cong., 1st Sess. 177-8 (1979).

[9] S. REP. NO. 96-249, supra at 178. Baby carrots in packages of five pounds or less (previously assessed under Canadian tariff items 8707-1 and 8731-1) were increased from 0.5 cent per pound plus [an additional duty of] 5 percent ad valorem to 1 cent per pound, but not less than 5 percent ad valorem, plus [an additional duty of] 5 percent ad valorem (presently assessed under Canadian tariff items 8713-1 and 8748-1). The rates applicable to all other carrots have remained unchanged since the MTN implementation in Canada.

[10] Headnote 1, subpart A, part 8, schedule 1, TSUS, provides: In the assessment of duty on any kind of vegetables, any foreign matter or impurities mixed therewith shall not be segregated nor shall any allowance therefor be made.

[11] Some varieties of carrots produce relatively short carrots, typically less than 4 inches to 4½ inches in length, often referred to as "baby" carrots.

pound net-weight see-through plastic bags, and are packed for shipment in master containers weighing about 48 pounds each.[12]

U.S. TARIFF TREATMENT

The U.S. tariff description applicable to imports of the relevant articles is for fresh, chilled, or frozen carrots 4 inches or more in length (TSUS item 135.42) which are "not reduced in size nor otherwise prepared or preserved"; virtually all imports under that description have been fresh or chilled whole carrots.[13]

Current rates.—The current U.S. rates of duty applicable to fresh, chilled, or frozen (but not reduced in size nor otherwise prepared or preserved) carrots are shown in the following tabulation:

CERTAIN CARROTS: CURRENT U.S. RATES OF DUTY

GSP	TSUS	Articles	Rates of Duty		
			1	LDDC[1]	2
		Vegetables, fresh, chilled, or frozen (but not reduced in size nor otherwise prepared or preserved):			
		Carrots:			
A	135.41	Under 4 inches long	1¢ per lb.		8¢ per lb.
	135.42	Other	0.5¢ per lb.		4¢ per lb.

[1] The rates of duty in rate of duty column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are applicable to products of the least developed developing countries designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 applies.

Note: The symbol "A" in the column entitled "GSP" opposite a TSUS item denotes an article eligible for duty-free treatment if imported from specified beneficiary developing countries for purposes of the Generalized System of Preferences.

Bulk fresh carrots, which are the subject of this legislation, are currently dutiable at a column 1 rate of 0.5 cent per pound, and a column 2 rate of 4 cents per pound. Articles under TSUS item 135.42 are not eligible for duty-free treatment under the GSP.[14] If the duty rate of 0.5 cent per pound had been applicable during 1977–79, the ad valorem equivalent (AVE) of the duty on imports entering from Canada during those years would have been 6.8 percent for 1977, 7.4 percent for 1978, and 8.6 percent for 1979.

The current rates of duty on fresh, chilled, or frozen (but not reduced in size nor otherwise prepared or preserved) carrots became effective January 1, 1980, as a result of negotiations, principally with Canada, in the context of the recently concluded (Tokyo round) Multilateral Trade Negotiations (MTN), and of section 508 of title V of the Trade Agreement Act of 1979.[15]

Historic rates.—The pre-MTN U.S. rates of duty applicable to fresh, chilled, or frozen (but not reduced in size nor otherwise prepared or preserved) carrots are shown in the following tabulation:

---

[12] A principal importer of bulk fresh carrots delineates three shipping modes for imported fresh carrots—"field run"; "washed and graded"; and "cellos". See Appendix B. The Canadian government has compiled statistics on U.S. exports of fresh carrots into Canada based on distinctions between "bulk packages" and "cello packs". See Appendix C.

[13] Only negligible amounts of frozen, whole carrots are imported into the United States; imports of fresh, chilled. or frozen carrots that are cut, sliced, or otherwise reduced in size, and/or otherwise prepared or preserved, are provided for elsewhere in the TSUS; e.g., items 138.42, 141.82, or 141.98. Carrots under 4 inches in length (TSUS item 135.41) are also outside the scope of this legislation.

[14] The GSP under Title V of the Trade Act of 1974 provides duty-free treatment of specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985.

[15] Pursuant to authority granted in section 502(a) of the Trade Agreements Act of 1979, the President proclaimed the duty increases applicable to carrots (in section 508) effective January 1, 1980. Pres. Proc. 4707, secs. 5(a) and 6(e); 44 *Fed. Reg.* 72348 at 72349–50 (December 13, 1979). There has been some controversy with respect to whether the procedural prerequisites were met prior to enactment of section 508 and the proclamation of the duty increase. See Appendix F for a more detailed discussion of this matter.

CERTAIN CARROTS: PRE-MTN RATES OF DUTY

GSP	TSUS	Articles	Rates of Duty	
			1	2
		Vegetables, fresh, chilled, or frozen (but not reduced in size nor otherwise prepared or preserved):		
		Carrots:		
A	135.41	Under 4 inches long	6% ad val.	50% ad val.
	135.42	Other	6% ad val.	50% ad val.

Note: The symbol "A" in the column entitled "GSP" opposite a TSUS item denotes an article eligible for duty-free treatment if imported from specified beneficiary developing countries for purposes of the Generalized System of Preferences.

Prior to January 1, 1980, bulk fresh carrots of 4 inches in length or over were dutiable under TSUS item 135.42 at the column 1 rate of 6 percent ad valorem.[16] The same rate of duty applied to fresh carrots of 4 inches in length or over and not in bulk (e.g., in retail packages), and to fresh carrots under 4 inches long ("baby" carrots). TSUS item 135.41 became effective March 1, 1977, as a result of a petition from a domestic processor for GSP treatment of baby carrots. Thus, prior to the MTN "harmonization", the United States had two rate lines for carrots solely to distinguish GSP treatment even though the column 1 and 2 rates were the same for each article.

CANADIAN TARIFF TREATMENT [17]

The current Canadian tariff schedule with respect to fresh carrots in their natural state provides for both baby carrots not exceeding 4½ inches in length (tariff no. 8713-1), and other carrots exceeding 4½ inches in length (tariff no. 8712-1). The current Canadian rate of duty on imports from the United States for fresh baby carrots is 1 cent per pound (including the weight of the package), but not less than 5 percent ad valorem, when the duty rate is in force. The current Canadian rate of duty on imports from the United States for fresh carrots over 4½ inches in length is 0.5 cent per pound (including the weight of the package), when the duty rate is in force. For either tariff item in any 12-month period ending March 31, the specific or ad valorem duty, as the case may be, shall not be maintained in force in excess of 40 weeks which may be divided into two separate periods, and a free rate shall applys whenever the specific or ad valorem duty is not in effect.

When the carrots are subject to the specific rates of duty (or the minimum ad valorem rate for baby carrots), and are imported in packages weighing 5 pounds or less, each, they are subject to an additional duty of 5 percent ad valorem (See Canadian tariff no. 8748-1.) The duty rates in force are applied separately in each of the three Canadian customs regions. During the most recent 12-month fiscal cycle (April 1, 1980 to March 31, 1981) in which the 40-week dutiable period for fresh carrots could have been applied, the number of weeks in which the duty was actually applied was: 30 weeks in Region I; 5 weeks in Region II; and 39 weeks in Region III. (See Appendix A.) In the 12-month fiscal cycle beginning April 1, 1981, the duty had been put into effect only in Region III (as of October 27, 1981).

STRUCTURE OF THE DOMESTIC INDUSTRY

The primary domestic interests which could be affected by this legislation are likely to be prepackagers of carrots imported in bulk for fresh market sales, domestic processors who might advantageously process Canadian supplied fresh carrots, and some domestic firms that use Canadian cull carrots for animal feed.

Other domestic industries which might be affected, if any, are likely to be growers and shippers of fresh market carrots that ship carrots in volume to the same U.S. markets at the same time of year as Canadian suppliers of fresh market carrots. Domestic processors that might use cull fresh-market-type carrots generally use them as a supplement to contracted processing-type carrots because cull fresh-market-type carrots have a lower yield of finished product per ton of raw product than do processing-type carrots.

---

[16] Fresh carrots have been dutiable at ad valorem rates for many years. Under paragraph 774 of the Tariff Act of 1930, carrots were dutiable at 50 percent ad valorem. This was reduced in various trade agreements to a column 1 rate of 12.5 percent ad valorem in 1963 when the TSUS was initially proclaimed (TSUS item 135.40). The Kennedy Round of tariff negotiations in 1967 resulted in further staged reductions to 6 percent ad valorem, effective January 1, 1972.

[17] Canadian imports of fresh carrots are nearly all from the United States. See Appendix C.

Carrots are produced on about 4,000 farms in the United States. Most of these producers specialize in the production of fruits and vegetables, and carrots are usually only one of several fruit or vegetable crops grown. Fresh carrots are available year round in the United States. California, which supplied 46 percent of total U.S. output during 1976-80, ships fresh carrots year round. Washington (10 percent of U.S. output), Wisconsin (7 percent), and Michigan (7 percent) ship their output principally in the fall and winter. Texas (12 percent of U.S. output) and Florida (5 percent) ship fresh carrots principally during winter and spring months. Ten other states accounted for 13 percent of the output. Carrots remain in good condition for as long as 6 months when stored under proper conditions.

Basically there are two separate markets for carrots—those sold on the fresh market and those sold for processing. In 1976-80, about 60 percent of the quantity (85 percent of the value) of carrots produced in the United States were for fresh market use and the remainder were sold for processing (table 1). It is believed that 20 to 25 firms that process canned carrots and 25 or more firms that process frozen carrots account for nearly all of the U.S. production of processed carrots; generally, the same firms do not both can and freeze carrots. Many processors of canned carrots use processing varieties of carrots almost exclusively and avoid fresh market varieties, owing to yield. It is estimated that 150 or more domestic firms ship, or prepackage and ship, fresh market carrots.

DOMESTIC PRODUCTION

During 1976-80, U.S. production of carrots for all uses averaged about 2.09 billion pounds annually, reaching a peak in 1979 of 2.2 billion pounds (table 1). Of the major producing states, production in California, Texas, Michigan and Florida went largely to fresh market, and production in Washington and Wisconsin went largely to processing outlets (table 2). Carrot production in New York State, which accounts for about 2 percent of the total U.S. production, has gone primarily to fresh-market outlets in recent years.

U.S. IMPORTS

During 1976-80, U.S. imports of all fresh or chilled carrots[18] increased from 67 million pounds valued at $3.5 million in 1976, to 109 million pounds valued at $11 million in 1980, an increase of 61 percent by quantity and a tripling of the value (table 3). The increases were due almost entirely to increased imports from Canada which, over five years, accounted for 89 percent by quantity and 92 percent by value of total imports. Mexico supplied virtually all the remainder of the imports;[19] supplies from sources other than Canada and Mexico accounted for less than ½ of 1 percent of the total. During the period January-June 1981, U.S. imports of fresh or chilled carrots declined from 21 million pounds to 14.5 pounds, or by 31 percent. Imports during this part of the year consist chiefly of carrots from Canadian storage houses, some of which are shipped in bulk for prepackaging in the United States for fresh market sales. An annual seasonal analysis of fresh carrot imports from Canada, based on data for 1977-79 (the years which preceded the duty rate change), reveals that 91 percent of U.S. carrot import were entered during the months of August through the following February (October was the peak month), and 9 percent entered during March through July (See Appendix D).[20]

Three U.S. customs districts account for nearly all of the imports of fresh carrots from Canada; but the pattern of imports changed from 1979 to 1980, in respect to both quantity and average unit value, as shown in the following table:

---

[18] Imports of fresh or chilled carrots under 4 inches long are negligible and are included in the data.

[19] Mexican exports, for the most part, supplement the seasonal marketings of fresh market carrots by U.S. firms before Texas production is harvested. However, the staff notes that (unlike Canadian vegetable exports) all Mexican fresh vegetable exports to the United States (including carrots) are subject to USDA requirements to be free of soil (e.g., washed) in order to prevent the entry into the United States of certain soil-borne diseases.

[20] Imports of fresh carrots from Mexico, virtually the only other supplier, enter mostly during the months of August through the following February (82 percent in 1977-79); the principal months for imports from Mexico are November through March.

CARROTS, FRESH: U.S. IMPORTS FROM CANADA BY PRINCIPAL CUSTOMS DISTRICTS, 1979 AND 1980

Year	Customs district				
	Buffalo, N.Y.	Champlain, N.Y.[1]	Detroit, Mich.	All other	Total
Quantity (1,000 pounds):					
1979	58,542	21,692	6,278	280	86,792
1980	41,417	43,829	18,336	341	103,923
Average unit value (cents per pound):					
1979	4.9	8.4	5.4	11.8	5.8
1980	3.7	12.0	10.1	12.4	10.3

[1] Ogdensburg, N.Y. customs district, but most imports enter at the port of Champlain-Rouses Point.

Source: Compiled from official statistics of the U.S. Department of Commerce.

It is believed that in 1979 most U.S. imports of bulk carrots entered through the customs district at Buffalo, New York, the second in rank may have been Detroit, Michigan (based on average unit values), followed by Champlain, New York.[21]

Based on trade in 1980, the principal U.S. importers of record of fresh carrots include Canadian suppliers who generally package, or grow and package, fresh carrots in Canada for distribution in both Canada and the United States. Ten Canadian suppliers who were importers of record accounted for nearly 60 percent of total U.S. imports in 1980; about two-thirds of the volume was from Ontario suppliers and one-third was from Quebec suppliers. Major Canadian suppliers included Bailey River Farms Ltd., Gemini Farms Ltd., Quebec Vegetable Distributors, Inc., Societe Cooperative Agricole, Tecumseth Valley Gardens, and Terres Noires Sherrington Ltd. Four importers of record in New York State accounted for about another 20 percent of total U.S. imports.

The incidence of the duty on imports of fresh or chilled carrots was affected by the duty rate change, which went from an ad valorem rate to a specific rate effective January 1, 1980. The following tabulation shows the ad valorem rate, or the ad valorem equivalent of the specific rate, for imports of fresh or chilled carrots 4 inches in length or over which were entered during 1979 and 1980, and during January–June 1980 and January–June 1981, by principal sources:

CARROTS, FRESH OR CHILLED[1]: AD VALOREM DUTY OR AD VALOREM EQUIVALENT OF THE DUTY

[Percent]

Source	1979	1980	January–June	
			1980	1981
Canada	6	4.8	9.3	5.1
Mexico	6	8.4	7.6	7.3
All sources[2]	6	4.9	9.3	5.1

[1] Carrots 4 inches in length or over, TSUS item 135.42.

[2] Includes other sources.

Precise information is not available on the quantity of fresh or chilled carrots that are imported into the United States in bulk (i.e., units of more than 5 pounds each); however, it is estimated, based on various trade factors, that perhaps two-fifths of 1979 imports were entered in bulk. In 1980, the share entered in bulk was probably less than one-fifth of annual imports.[22] One of the larger firms to import fresh carrots from Canada in bulk is the J. C. Brock Corporation of Buffalo, New York, a prepackager of carrots for fresh market use. During the 18 months prior to the duty rate change that company imported 15.7 million pounds of bulk carrots from Canada, and in the 18 months subsequent to the duty change they imported 10.0 million pounds in bulk, a decline of 36 percent. Another firm that imported bulk carrots from Canada for fresh market use, Star-Dell Products, Inc., Franklinville, N.Y., has reportedly ceased operations and imports of bulk carrots allegedly because of the duty rate change.

---

[21] It is reported (by a U.S. customs official) that prior to the duty rate change, fresh carrot culls from Canada entered in bulk by truck loads for use as animal feed on farms along the Northern New York and Vermont border. After the duty rate change, some traders started the practice of breaking such carrots (for animal feed) into two or more pieces and entering them as reduced-in-size vegetables at the duty rate of 17.5 percent ad valorem (under TSUS item 138.42) rather than pay the 0.5 cent per pound rate on whole carrots.

[22] By contrast, nearly three-fourths of U.S. exports to Canada of fresh carrots were entered into Canada in bulk in a recent year (1979), according to a Canadian government report. (See Appendix C.)

A domestic processor of canned carrots, Draper-King Cole, Inc., Milton, Delaware, states that they imported 8.6 million pounds of bulk carrots from Canada in 1979 (cull fresh-market-type carrots) and imported significantly less than 1 million pounds in 1980; the decline was reportedly due to the duty rate change.

U.S. EXPORTS

U.S. exports of fresh or chilled carrots, not reduced in size nor otherwise prepared or preserved,[23] increased from 69 million pounds, valued at $4.2 million, in 1976 to 119 million pounds, valued at $9.1 million, in 1977; thereafter such exports declined for the next 3 years, reaching 62 million pounds, valued at $8.0 million, in 1980 (table 4). Canada has been the largest export market, by far, taking 84 percent by quantity (70 percent, by value) of total U.S. exports of fresh carrots during 1976-80.[24] Other export markets of note include Trinidad, Sweden, United Kingdom, and Norway. It is believed that virtually all of the carrots exported from the United States are for fresh market use rather than for processing. Nearly four-fifths of total U.S. exports are exported during the months of March through July, a period when U.S. carrot imports are relatively small (See Appendix D).

APPARENT U.S. CONSUMPTION

U.S. apparent consumption of fresh or chilled carrots for all uses averaged 2.1 billion pounds annually during 1976-80 (table 5). Imports supplied about 4 percent of annual consumption during this period. Consumption of fresh-market carrots averaged nearly 1.3 billion pounds annually, or about 60 percent of total U.S. consumption of carrots during 1976-80. Considering only fresh-market carrots, imports supplied nearly 7 percent of consumption.

POTENTIAL ANNUAL LOSS OF REVENUE

Assuming that the quantity of fresh or chilled carrots imported in bulk units holding more than 100 pounds does not exceed the maximum estimated quantity entered in bulk in the year prior to the duty rate change (1979), the annual potential loss of revenue under this legislation (based on an estimated 38 million pounds) would not exceed $190,000.

TECHNICAL COMMENTS

A technical amendment should be made to the "Effective Period" column to substitute "2/15/85" in lieu of "6-30-85". This amendment would conform the "Effective Period" column with the limitation on entry provided in the article description; i.e., the duty-free entry provision will expire February 15, 1985, as the legislation is currently drafted.

TABLE 1.—CARROTS: U.S. PRODUCTION FOR FRESH MARKET AND FOR PROCESSING, 1976-80

Utilization	1976	1977	1978	1979	1980
Quantity (million pounds):					
Fresh market	1,305	1,174	1,247	1,288	1,369
Processing	693	854	845	938	718
Total	1,998	2,028	2,092	2,226	2,087
Value (1,000 dollars):					
Fresh market	105,385	131,026	124,725	136,748	154,386

---

[23] Exports of frozen whole carrots, not otherwise prepared or preserved, are believed to be negligible or nil; such exports are included in a category for all frozen carrots, whether or not reduced in size or otherwise prepared or preserved. (Schedule B number 138.1000.)

[24] A Canadian government analysis of U.S. exports of fresh carrots into Canada is included as Appendix C. The major U.S. exporters into Canada are listed in Appendix E.

TABLE 1.—CARROTS: U.S. PRODUCTION FOR FRESH MARKET AND FOR PROCESSING, 1976–80—Continued

Utilization	1976	1977	1978	1979	1980
Processing	13,586	18,638	19,328	21,884	19,052
Total	118,971	149,664	144,053	158,632	173,438
Unit value (cents per pound):					
Fresh market	8.1	11.2	10.0	10.6	11.3
Processing	2.0	2.2	2.3	2.3	2.7
Average	6.0	7.4	6.9	7.1	8.3

Source: Compiled from official statistics of the U.S. Department of Agriculture, and data from the Florida Department of Agriculture.

TABLE 2.—CARROTS: U.S. PRODUCTION FOR FRESH MARKET AND FOR PROCESSING, BY SPECIFIED STATES, 1976–80

State	1976	1977	1978	1979	1980
Fresh market:					
Quantity (million pounds):					
California	724	645	675	717	797
Texas	217	171	221	179	167
Michigan	120	104	109	113	88
Florida [1]	70	100	110	125	135
Washington	61	41	21	44	60
Other States [2]	113	113	111	110	122
Total	1,305	1,174	1,247	1,288	1,369
Value (1,000 dollars):					
California	54,172	69,291	66,185	74,771	87,437
Texas	16,767	22,254	19,476	19,634	17,299
Michigan	11,721	12,126	14,341	12,104	14,371
Florida [1]	5,600	11,000	10,450	13,695	12,006
Washington	6,907	3,847	2,611	5,739	8,820
Other States [2]	10,218	12,508	11,662	10,805	14,453
Total	105,385	131,026	124,725	136,748	154,386
Processing:					
Quantity (million pounds):					
California	204	279	227	312	241
Washington	118	192	162	180	134
Michigan	45	26	53	59	46
Oregon	35	45	39	55	54
Texas	60	44	89	38	38
Other States [3]	231	268	275	294	205
Total	693	854	845	938	718
Value (1,000 dollars):					
California	4,119	6,900	6,232	7,745	6,705
Washington	1,886	2,944	2,560	2,637	2,308
Michigan	919	667	1,291	1,299	1,333
Oregon	558	823	655	1,086	1,198
Texas	1,251	700	1,506	695	789
Other States [3]	4,853	6,604	7,084	8,422	6,719
Total	13,586	18,638	19,328	21,884	19,052

[1] Crop year ending in year shown; data (partially estimated) from the Florida Department of Agriculture.

[2] 10 other States; production in 1980 in Minnesota, Oregon, New York, Colorado, and Arizona each ranged from $2 million to $3 million.

[3] 7 other States; Wisconson is believed to account for over one-half of the production shown (data for Wisconson are not separately available in all years).

Source: Compiled from official statistics of the U.S. Department of Agriculture, except as noted.

TABLE 3.—CARROTS, FRESH, CHILLED, OR FROZEN (BUT NOT REDUCED IN SIZE)[1]: U.S. IMPORTS FOR CONSUMPTION, BY SOURCES, 1976–80, JANUARY–JUNE 1980, AND JANUARY–JUNE 1981

Source	1976	1977	1978	1979	1980	January–June— 1980	January–June— 1981
Quantity (1,000 pounds):							
Canada	62,045	53,815	63,613	86,792	103,923	20,198	13,685
Mexico	4,999	18,533	8,566	7,962	4,748	781	820
Belgium	256	136	104	67	0	0	0
All other [2]	0	73	23	2	10	0	0
Total	67,300	72,557	72,306	94,823	108,681	20,979	14,505
Value (1,000 pounds):							
Canada	3,156	3,974	4,290	5,034	10,751	1,083	1,353
Mexico	267	727	491	408	283	51	56
Belgium	52	39	31	18	—	—	—
All other [2]	—	4	7	1	2	—	—
Total	3,475	4,744	4,819	5,461	11,036	1,134	1,409
Unit value (cents per pound):							
Canada	5.1	7.4	6.7	5.8	10.3	5.4	9.9
Mexico	5.3	3.9	5.7	5.1	6.0	6.6	6.8
Belgium	20.5	28.7	29.8	26.9	—	—	—
All other [2]	—	5.2	28.9	32.9	17.4	—	—
Average	5.2	6.5	6.7	5.8	10.2	5.4	9.7

[1] Includes carrots under 4 inches long, which began to be reported separately in 1977; carrots under 4 inches long are believed to account for less than 1 percent of the annual imports.

[2] Reported imports shown under all other sources are as follows: 1977 Colombia; 1978 and 1979 Netherlands; and 1980 Costa Rica.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 4.—CARROTS, FRESH OR CHILLED, U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1976–80, JANUARY–JUNE 1980, AND JANUARY–JUNE 1981

Market	1976	1977	1978	1979	1980	January–June— 1980	January–June— 1981
Quantity (1,000 pounds):							
Canada	61,018	98,441	105,754	87,511	45,347	35,076	45,802
Trinidad	778	1,883	2,048	2,365	2,878	2,257	2,636
Sweden	3,627	5,670	5,525	5,820	5,867	5,867	8,176
United Kingdom	0	5,832	0	4,836	2,080	2,080	7,939
Norway	573	774	712	657	2,617	2,617	3,530
All other	3,289	6,843	3,826	3,010	3,674	2,052	3,850
Total	69,285	119,443	117,865	104,199	62,463	49,949	71,933
Value (1,000 pounds):							
Canada	3,245	6,198	6,513	5,513	5,032	3,481	7,560
Trinidad	121	398	535	730	920	735	859
Sweden	368	690	550	670	745	745	1,335
United Kingdom	—	920	—	813	407	407	1,367
Norway	87	115	102	85	317	317	540
All other	380	825	508	445	549	260	743
Total	4,201	9,146	8,208	8,256	7,970	5,945	12,404
Unit value (cents per pound):							
Canada	5	6	6	6	11	10	17
Trinidad	16	21	26	31	32	33	33
Sweden	10	12	10	12	13	13	16
United Kingdom	—	16	—	17	20	20	17
Norway	15	15	14	13	12	12	15

TABLE 4.—CARROTS, FRESH OR CHILLED, U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1976–80, JANUARY–JUNE 1980, AND JANUARY–JUNE 1981—Continued

Market	1976	1977	1978	1979	1980	January–June—	
						1980	1981
All other	12	12	13	15	15	13	19
Average	6	8	7	8	13	12	17

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 5.—CARROTS, FRESH OR CHILLED: U.S. PRODUCTION, EXPORTS, IMPORTS, AND APPARENT CONSUMPTION, 1967–80

[In millions of pounds]

Year	Production	Exports	Imports [1]	Apparent consumption	Ratio (percent) of imports to consumption
1967	1,998	69	67	1,996	3.4
1977	2,028	119	73	1,982	3.7
1978	2,092	118	72	2,046	3.5
1979	2,226	104	95	2,217	4.3
1980	2,087	62	109	2,134	5.1

[1] Includes imports of all fresh or chilled, or frozen (if any), whole carrots not reduced in size: does not include imports of reduced-in-size fresh, chilled, or frozen carrots.

Source: Production compiled from official statistics of the U.S. Department of Agriculture and from data of the Florida Department of Agriculture; imports and exports compiled from official statistics of the U.S. Department of Commerce.

Note.—Production is total production for fresh market and processing.

APPENDIX A.—DUTIABLE PERIODS FOR CARROTS IMPORTED INTO CANADA FROM THE UNITED STATES, BY CANADIAN CUSTOMS REGION, 1978–1981

SPECIFIC AND AD VALOREM DUTY

According to Revenue Canada, Customs and Excise, the periods in which the specific duty and ad valorem duty were, or are, in effect at any time during the past or present 12-month periods (beginning April 1, 1978) are listed below:

Region I—Maritime Provinces

Began August 11, 1978; Expired March 2, 1979.
Began August 31, 1979; Expired May 2, 1980.
Began September 3, 1980; Expired February 27, 1981.

Region II—Quebec and Ontario

Began February 22, 1978; Expired April 6, 1978.
Began March 28, 1979; Expired April 20, 1979.
Began February 15, 1980; Expired May 6, 1980.
(Not in effect in the spring or summer of 1981.)

Region III—Western Provinces

Began July 11, 1978; Expired April 12, 1979.
Began July 10, 1979; Expired May 9, 1980.
Began August 6, 1980; Expired April 10, 1981.
Began August 26, 1981.

Source: Import Analysis Directorate, Department of Industry, Trade and Commerce, Ottawa (Pub. No. 3880); updated 10-27-18 based on information from Revenue Canada (via telephone, Ms. Andrea Tremblay, Office of fruit and vegetable seasonal duties).

CARROTS, FRESH (OVER 4½ INCHES IN LENGTH): NUMBER OF WEEKS IN WHICH THE CANADIAN RATES OF DUTY WERE IN EFFECT, BY CUSTOMS REGION, FISCAL YEARS 1978/79—1980/81

Canadian customs region	Fiscal year (Apr. 1 to Mar. 31)		
	1978/79	1979/80	1980/81
Region I—Maritime Provinces	29	30	30
Region II—Quebec and Ontario	2	9	5
Region III—Western Provinces	37	40	39

Source: Compiled by staff of the U.S. International Trade Commission based on information from Revenue Canada, Customs and Excise.

Note.—The maximum period in which the Canadian rates of duty may be applied to fresh carrots over 4½ inches in length is 40 weeks within the April 1-March 31 fiscal year.

APPENDIX B.—HARVESTING AND SHIPPING OF FRESH CARROTS

Carrots, other than bunched, are harvested virtually 100 percent by machine.[1] They are then shipped three basic ways:

1. Field Run—

Most carrots are machine harvested directly into pallet boxes or field trucks for the short haul to packaging or processing plants.

At the packaging plants the carrots are then washed and graded for size and quality and packaged in 1 pound, 2 pound or 5 pound bags ready for distribution and sale to the consumer.

Since the haul from field to plant is short, the cost of hauling the dirt and culls is not a serious factor and saves the double handling of the product.

2. Washed and Graded—

Field run carrots are transported to a packing shed where they are washed and graded by size and quality, then placed in large bags containing from 50 pounds to 80 pounds of carrots. They are then shipped to another packing plant to be weighed and packaged in 1 pound, 2 pound or 5 pound bags ready for distribution to the consumer.[2]

This method is usually used when shipping long distances to cut down the cost of freight.

3. Cellos—

Either field run or washed and graded carrots are transported to a packaging plant where they are further washed and graded for size and quality. They are then weighed and packaged in 1 pound, 2 pound or 5 pound cello or plastic bags ready for distribution to the consumer.[3]

APPENDIX C.—AN ANALYSIS OF U.S. EXPORTS OF FRESH CARROTS INTO CANADA, BY CANADIAN CUSTOMS REGION, AND BY DUTIABLE PERIODS, DURING 1979

The following excerpt and tabular material are taken from Pub. No. 3880, Import Analysis Directorate, Department of Industry, Trade and Commerce, Ottawa.

Imports of fresh carrots into Canada during the period January to December 1979 show a total quantity of 82,336,000 pounds for a value of $8,451,000. Analysis indicates that fresh carrots imported in bulk packages accounted for a quantity of 60,004,000 pounds for a value of $5,504,000 or 73 percent and 65 percent, respectively, of the total quantity and value. Imports of fresh carrots in cello packs (excluding baby) accounted for a quantity of 20,822,000 pounds for a value of $2,599,000 or 25 percent and 31 percent, respectively, of the total quantity and value. This report is based on exports to Canada from the United States only.

Full details are provided in the following table.

---

[1] This information was supplied by the J. C. Brock Corp., Buffalo, N.Y.

[2] Information available to the USITC staff indicates that "washed and graded" fresh carrots in 25-80 pound containers may also be shipped (and purchased) for consumption by large institutional users; e.g., hotels, commissaries, restaurants, etc.

[3] Information available to the USITC staff indicates that "cellos" are shipped (or imported) in 48 pound "master" containers.

IMPORTS OF FRESH CARROTS INTO CANADA [1]—JANUARY-DECEMBER 1979

Region of entry [2]	Weight of imports (thousands of pounds)				Value of imports (thousands of dollars)				Duty charged (dollars)			
	East of Quebec	Quebec and Ontario	West of Ontario	Total Canada	East of Quebec	Quebec and Ontario	West of Ontario	Total Canada	East of Quebec	Quebec and Ontario	West of Ontario	Total Canada
Cello packs (excluding baby):												
Entered free of duty	6,276	2,750	7,559	16,585	843	310	902	2,055				
Entered dutiable	96	277	3,864	4,237	15	29	500	544	4,800	2,649	43,008	50,457
Total imports	6,372	3,027	11,423	20,822	858	339	1,402	2,599	4,800	2,649	43,008	50,457
Bulk packages:												
Entered free of duty	2,098	37,475	10,138	49,710	279	3,123	986	4,388				
Entered dutiable	120	1,251	8,923	10,294	10	123	983	1,116	1,144	6,357	50,375	57,876
Total imports	2,218	38,725	19,061	60,004	289	3,245	1,970	5,504	1,144	6,357	50,375	57,876
Cello baby carrots:												
Entered free of duty	75	971	73	1,119	20	218	14	252				
Entered dutiable	34	133	224	391	7	40	49	96	400	2,201	2,572	5,173
Total imports	109	1,104	296	1,510	27	258	63	348	400	2,201	2,572	5,173
All carrots:												
Entered free of duty	8,449	41,196	17,770	67,414	1,142	3,651	1,902	6,695				
Entered dutiable	250	1,661	13,011	14,922	32	192	1,532	1,756	6,344	11,207	95,955	113,506
Total imports	8,699	42,856	30,780	82,336	1,174	3,842	3,434	8,451	6,344	11,207	95,955	113,506

[1] Value and duty charged data are reported in Canadian dollars.

[2] Region I—Maritime Provinces (east of Quebec); Region II—Quebec and Ontario; Region III—Western Provinces (west of Ontario).

APPENDIX D.—THE SEASONALITY OF THE CROSS-BORDER TRADE IN FRESH CARROTS: UNITED STATES AND CANADA

CARROTS, FRESH OR CHILLED: SEASONALITY OF U.S. TRADE WITH CANADA, BY MONTHS, 3-YEAR AVERAGE 1977–79

[Percent]

Month	Share of annual average trade, 3-yr., 1977–79	
	Imports [1]	Exports [2]
January	12.2	4.7
February	8.7	7.6
March	5.2	11.4
April	2.8	18.6
May	.5	22.3
June	.1	16.6
July	(3)	9.6
August	3.7	1.2
September	13.3	.9
October	19.7	1.5
November	17.7	1.4
December	16.1	4.2
Total	100.0	100.0

[1] During 1977–79, U.S. imports from Canada averaged 68 million pounds annually and accounted for 85 percent of total U.S. imports.
[2] During 1977–79, U.S. exports to Canada averaged 97 million pounds annually and accounted for 85 percent of total U.S. exports.
[3] Less than 0.05 percent.

Source: Compiled from official statistics of the U.S. Department of Commerce.

APPENDIX E.—PRINCIPAL U.S. EXPORTERS OF FRESH CARROTS INTO CANADA DURING 1979

The following excerpt and tabular material are taken from Pub. No. 3880, Import Analysis Directorate, Department of Industry, Trade and Commerce, Ottawa.

The seventeen largest exporters to Canada of fresh carrots, in descending order of import quantities, are listed below. These seventeen exporters accounted for 82 percent of the total quantity of fresh carrots during the period analyzed. The remaining 18 percent consists of 79 exporting companies.

[In thousands of pounds]

Name	Address	Quantity
Joe Maggio Inc	Holtsville, Calif	
	Lakeland, Fla	15,906
Mario Saikon Inc	Holtsville, Calif	11,993
Safeway Stores Inc	Santa Maria, Calif	
	Bakersfield, Calif	8,522
Dennis Produce Sales Inc	Holtsville, Calif	
	Lamont, Calif	7,023
Pacific Fruit & Produce Co	Los Agneles, Calif	3,886
M. O. Buster Williams	Mount Dora, Fla	3,637
Belridge Packing Co	Bakersfield, Calif	2,152
Joe Phillips Inc	Fresno, Calif	1,865
Clonts Farms Inc	Oviedo, Fla	1,797
Hallee-Boy Sales	Lake Jem, Fla	1,477
Florance Distributing Co. Inc	Los Angeles, Calif	1,438
Tenneco West Inc	Bakersfield, Calif	
	Thermal, Calif	1,420
Merit Packing Co	Salinas, Calif	1,327
California Fruit & Vegetables Inc	Lamont, Calif	1,259

Name	Address	Quantity
Tanita Farms Inc	Glendale, Ariz	1,230
Richard A. Glass	Indio, Calif	1,133
Mashburn Inc	Norwalk, Calif	1,061

APPENDIX F—BACKGROUND OF SECTION 508 AND PRESIDENTIAL PROCLAMATION 4707 CONCERNING CARROTS

There appear to be some inconsistencies between the legislative history of the U.S. tariff increase for carrots (embodied in section 508) and the executive branch implementation of this delegated authority (embodied in Pres. Proc. 4707). The President proclaimed, in recital 5(a) of Pres. Proc. 4707, that he had determined that "appropriate concessions have been received from foreign countries" as he is required to do (by section 502) as a prerequisite to implementation of the tariff increases provided in section 508. However, as noted earlier, congressional enactment of section 508 was predicated, inter alia, upon the assertion that U.S. and Canadian duties would be "harmonized" and that "Canada will reduce its rates" on U.S. carrot exports.[1] The only tariff change made by Canada in recent years occurred October 24, 1979, when the Canadian tariff on U.S. exports of baby carrots was increased above the pre-MTN rate.

The President also stated, in recitals 6 and 6(e), that ". . . each modification of any other import restriction or tariff provision so proclaimed is authorized by one or more of the following provisions or statutes: . . . (e) Section 505 through 513, inclusive, of the Trade Agreements Act of 1979 . . . by virtue of the fact that they permit *exceeding the limitations specified in Sections 101 or 109 of the Trade Act of 1974* . . .".[2] (Emphasis supplied.) This statement in Pres. Proc. 4707 apparently refers to the numerical limitations on presidential negotiating authority in section 101(c). However, this assertion appears to be contradicted by the legislative history of section 508:

"The President's statement of proposed administrative action erroneously states that the MFN tariff increase under item 135.41, from 6 percent ad valorem to 31.5 percent ad valorem equivalent, would exceed the limitations in section 101(c) of the Trade Act. If the requirements of section 134 of that act had been met, the President could have increased the MFN rate of duty under item 135.41 up to 75 percent ad valorem. The increase to 31.5 percent ad valorem equivalent is well within that ceiling."[3]

The President's authority to negotiate an agreement with Canada which increased U.S. tariffs in order to "harmonize" the U.S. and Canadian tariff structures was generally contemplated by Congress, in 1974, as an agreement to be negotiated pursuant to section 101 of the Trade Act.[4] However, this perception of presidential negotiating authority underwent a substantial transformation in the 1979 committee report which explained the rationale for title V of the Trade Act Agreements Act (including section 508):

"In addition to the tariff changes he will implement under section 101, the President has agreed to make a number of tariff changes which exceed the limitations on his delegated authority under section 101 or 109 of the Trade Act. *In doing so, the President has exercised his authority to enter into trade agreements under section 102 of the Trade Act of 1974 (19 U.S.C. 2112).* (Emphasis supplied.)

"Trade agreements entered into under section 102 of the Trade Act enter into force with respect to the United States only if they are approved by Congress and legislation implementing them is enacted into law. Various agreements relating to tariffs are approved under section 2 of the bill. Title V of the bill includes provisions amending the TSUS which are necessary or appropriate to implement trade agreements entered into under section 102 of the Trade Act of 1974 during the MTN".[5]

The committee report correctly notes that section 102 of the Trade Act lays down certain procedural prerequisite to the entry into force, with respect to the United States, of trade agreements negotiated under this section:

---

[1] S. REP. No. 96-249, *supra* at 178.

[2] Section 511 also involved a tariff change for which advice was not obtained from the ITC as required by section 134 of the Trade Act of 1974. *Id.* at 181-2.

[3] *Id.* at 178.

[4] "It is expected that this [tariff increase] authority would be used primarily to fulfill United States commitments in trade agreements which involve harmonization of tariff disparities in various sectors of our economy." S. REP. No. 93-1298, 93rd Cong., 2nd Sess. 73 (1974).

[5] S. REP. No. 96-249, *supra* at 162.

1. Prior notification to the Congress and publication in the Federal Register;[6]
2. Transmission of the agreement, draft implementing legislation, a statement of administrative action required to implement the agreement, and a statement of the economic rationale supporting the proposed action, to the Congress; and
3. Enactment of implementing legislation.

Whether all of the procedural prerequisites were fulfilled for entry into force of the trade agreement (concerning carrots) upon which section 508 is predicated is open to some question, in view of the absence of any explicit notification to the Congress of this "agreement".[7]

The legislative history of section 508 raises additional questions concerning this "agreement"—

"In negotiations with Canada, the United States agreed that Canadian and American MFN duties on certain vegetable products should be the same. In the case of carrots, Canada will reduce its rates and the United States will increase its rates to the amounts provided in section 508 of the bill. The requirements of section 134 of the Trade Act, *which must be met before a tarriff change can be made under section 101 of the act,* where not 135.41 and 135.42." (Emphaisis supplied.)[8]

The 1979 committee report implicitly assumes that, since the President failed to follow the public notice and advisory procedures required by sections 131 and 134 of the Trade Act for an agreement negotiated pursuant to section 101, the "agreement" upon which section 508 is based was therefore validly negotiated pursuant to section 102 authority. However the only apparent omission was, as noted in the committee report, the failure to seek International Trade Commission advice with respect to the proposed tariff increase pursuant to sections 131 and 134 of the Trade Act of 1974. This advisory procedure was a prerequisite for tariff agreements negotiated pursuant to either sections 101 *or* 102 of the Trade Act. Under section 134 of that Act, the President could make an offer on tariffs ". . . only after receiving a summary of the public hearings held with respect to that article and advice from the Commission."[9]

STATEMENT OF THE FLORIDA FRUIT & VEGETABLE ASSOCIATION, ORLANDO, FLA., SUBMITTED BY JOHN M. HIMMELBERG, ESQ.

SUMMARY OF COMMENTS

The Florida Fruit and Vegetable Association (Association) opposes H.R. 4501 which would temporarily suspend the duty on bulk fresh carrots from August 15 through February 15 of each year. The Association's position is based on the fact that passage of this bill will result in economic harm to Florida growers of carrots.

FLORIDA FRUIT AND VEGETABLE ASSOCIATION

The Florida Fruit and Vegetable Association is a non-profit, agricultural cooperative composed of growers, shippers and processors of Florida sugar cane, citrus fruits, tropical fruits and vegetables including carrots. It provides a medium for cooperative effort in dealing with public and private agencies to aid in the recognition and solution of industry problems.

---

[6] Results of the "Article XXVIII negotiations" with Canada for carrots were not specifically mentioned in the "Notices" transmitted to Congress and published in the Federal Register. However, the President's Memorandum did state that during "Congressional consideration of these agreements, we will also supply information on the related negotiations to reduce, harmonize, or eliminate tariff barriers . . .". Memorandum From the President, "International Trade Agreements," January 4, 1979 *in* 44 Fed Reg. 1933 at 1934 (January 8, 1979).

[7] We find no reference to any agreement to change the U.S. tariff treatment of fresh carrots in section 2 of the Trade Agreements Act of 1979, or in the trade agreements incorporated by reference therein. See generally, Committee on finance, "Agreements Negotiated under Section 102 of the Trade Act of 1974 in the Multilateral Trade Negotiations: Submitted on June 19, 1979, For Approval by Congress," 96th Cong., 1st Sess. (C.P. 96-24) (July 1979).

[8] S. Rep. No. 96/249, *supra* at 178.

[9] The legislative history of the relevant sections of the Trade Act of 1974 seems quite clear in this respect. "Before entering into proposed trade agreements, the President would be required to make public and submit to the U.S. International Trade Commission lists of articles to be considered for modification or continuance of duties or excise treatment *or additional duties* in negotiations under sections 101, *102*, 123, or 124." (Emphasis supplied.) S. REP. NO. 93-1298, 93rd Cong., 2nd Sess. 99-101 (1974). Thus, section 508 of the Trade Agreements Act may be viewed as an ex post facto delegation of negotiating authority to the President for the tariff agreement on carrots, or as an implied "ratification" of an otherwise ultra vires agreement.

The Association's members directly connected with producing carrots in Florida oppose this bill.

CARROT PRODUCTION IN FLORIDA

Florida produced 1,365,000 cwt. of carrots in the 1980-81 season.[1] This was one percent above the previous year and represents a steady increase in the production of carrots in Florida. Yet, even though production is on the rise, the value of the crop has fluctuated. For example, the value per cwt. beginning with the crop year 1975-76 through 1979-80 is respectively $7.90, $12.60, $9.68, $11.00 and $8.90.

Last year was a record year for Florida carrot growers, the total value of the carrot crop was $16.8 million compared to $12 million for the 1979-80 crop. Despite increased acreage and increases in the total value of the carrot crop over the last several years, the fluctuations in the value per cwt. referred to above, indicate clearly that carrots are a competitively sensitive crop.

Increases in imports from Canada, which would happen if this bill was passed, would depress the prices Florida farmers receive for their product.

Also, the Committee should note that New York City is Florida's number one market for carrots. Passage of this bill will permit Canadian carrots to be shipped unrestrained into New York via Buffalo to compete directly with Florida producers.

Florida growers now compete with growers from Texas and California. Such competition obviously makes Florida a more efficient, competitive producing state. Florida growers willingly accept the challenge of competing with growers in sister states, however, unrestrained foreign imports, which is the object of this bill, will undermine the domestic carrot industry.

This is especially true where the bill seeks to suspend the duty from August 15 through February 15. Florida plants carrots continuously from mid-August to the following mid-February and begins harvesting carrots on the 1st of November. Florida is most active harvesting carrots during the period December 15 through May 25. Because this bill covers a major portion of Florida's production period it is apparent, that this bill is intended to carve out a spot for Canadian carrots at the direct expense of the Florida and other domestic carrot industries.

We have been in touch with growers in Texas and Michigan and are advised that they are opposed to H.R. 4501.

CONCLUSION

We trust you will consider the foregoing factual information and the substantial harm both real and potential, to the Florida carrot industry in your deliberations on this bill.

Armed with this information, we believe the Committee will make the right decision and vote against H.R. 4501.

---

[1] Statistics in this section are taken from: Vegetable Summary 1981, Florida Agricultural Statistics, Florida Crop and Livestock Reporting Service, Florida Department of Agriculture and Consumer Services, Orlando, Florida, April 1982.

H.R. 4602

To suspend for 2 years the duty on certain prostheses if imported for charitable therapeutic use, or for free distribution by certain public or private nonprofit institutions

DEPARTMENT OF STATE

We are responding to your request for the views of the Department of State on H.R. 4602, a bill providing for the duty free entry of certain prosthetic devices for charitable therapeutic use or for free distribution by public or private nonprofit institutions.

We share the concern for the welfare of handicapped persons reflected in the proposed legislation, and we support enactment of the bill. H.R. 4602 would continue the duty free entry for certain prosthetic devices originally provided in Public Law 94-451, effective October 2, 1976, for an additional two year period and would also provide that other types of such devices be eligible for the same treatment.

The concern for the handicapped which H.R. 4602 represents also underlies the inclusion of Annex E (relating to articles for the blind and other handicapped persons) in the Protocol to the Agreement on the Importation of Educational, Scientific and Cultural Materials, which protocol was adopted at Nairobi, Kenya, on November 26, 1976, and opened for signature at the United Nations on March 1, 1977. The Nairobi Protocol amends and expands the coverage of the Agreement providing duty free treatment for imports of articles of an educational, scientific or cultural character, a multilateral accord which was adopted at Florence, Italy, in July, 1950, and which entered into force for the United States on November 2, 1966. The Protocol was transmitted to the Senate on January 16, 1981, with the recommendation that it give its advice and consent to ratification. Annex E is broader in scope than H.R. 4602, which is limited to externally powered electric prosthetic devices for the use of handicapped persons.

On October 20, 1981, at a public hearing held by the Committee on Foreign Relations to receive testimony on the Nairobi Protocol, Deputy Assistant Secretary for Business and Economic Affairs Ernest B. Johnston of the Department of State indicated that its implementation would provide important benefits for the United States, including opportunities for the expansion of trade in the covered products and lower cost articles for the blind and other handicapped persons. Mr. Johnston urged the Senate to approve the Protocol.

Draft legislation to implement the Protocol has been submitted to the Congress and we urge that the Committee on Ways and Means give it favorable consideration and the House of Representatives its approval.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

DEPARTMENT OF THE TREASURY

This is in reply to your request for the views of the Department of the Treasury concerning H.R. 4602, a bill "To suspend for 2 years the duty on certain prostheses if imported for charitable therapeutic use, or for distribution by certain public or private nonprofit institutions."

Section 1 of the bill would suspend for 2 years the duty on certain externally-powered electric prosthetic devices. Section 2 of the bill provides that the duty suspension would be applicable to entries and warehouse withdrawals made on or after the date of enactment of the bill.

This Department does not object to the suspension of duty on the above described articles. However, the Department believes the U.S. Customs Service may encounter difficulties in administration of the suspension since it would be difficult to determine which devices are intended for juveniles. Therefore, the Department suggests that the limitation, "juvenile," be dropped from the suggested amendment to the Tariff Schedules.

Also, this Department recommends that section 2 of H.R. 4602, as well as all proposed legislation amending the Tariff Schedules of the United States, provide for an effective date which is at least 15 days after the date of enactment. This would permit the U.S. Customs Service to notify its field offices and the public of the details of the new law. Similarly, the many customs brokers who use computers to prepare entry documentation require time to update their data bases with the new information. When laws are enacted changing the duty status of imported merchandise, the U.S. Customs Service invariably receives complaints from the public regarding the lack of timely notification.

Subject to amendment of the bill as recommended above, the Department of the Treasury does not object to the enactment of H.R. 4602.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 4602, if enacted, woud temporarily suspend for a 2-year period, the column 1 [1] rate of duty for externally-powered electric prosthetic devices for juvenile amputees and parts thereof, if imported solely for charitable therapeutic use, or distribution free of charge, by any public or private nonprofit institution established for educational, scientific, or therapeutic purposes. These articles, which are classified under item 709.57 of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), would be provided for in a new item, 912.07, in the Appendix to the TSUS. The proposed legislation is identical to Public Law 94-451 (which was approved October 2, 1976 and expired June 30, 1978), except for the exclusion in this suggested item of the word "elbow," which immediately preceded the word "prosthetic" in the Public Law. Such an exclusion would broaden the category of devices to be granted free entry during the suspension.

DESCRIPTION AND USES

Externally-powered electric prostheses include electric elbows, hands and hooks (hooks may be used in place of hands). There are no lower extremity electric devices.

These externally powered devices represent a small part of a larger category—artificial limbs—all of which serve as substitutes for amputated arms and legs. The devices are produced separately and later fitted to the patient as required; that is, no complete limb is produced. Electrically-powered devices function as a result of small motors activated by muscle movement causing the operation of the hand or elbow. These electrically-powered devices respond faster than mechanically-operated devices and are more natural in motion.

The expected life of electrically-powered devices in general is 4 to 5 years but is somewhat shorter (3 to 4 years) for growing children, who outgrow their devices and must be fitted with new ones.

TARIFF TREATMENT

Imported externally-powered electric prosthetic devices are currently provided for under item 709.57 of the TSUS, with a column 1 rate of duty of 8.4 percent ad valorem; item 709.57 is a residual or "basket" provision, including various other prosthetic devices. The current rate of duty represents the third step of annual duty reductions resulting from the Tokyo round of the Multilateral Trade Negotiations (MTN) concluded in 1979. Further reductions in the column 1 rate of duty are scheduled to take effect in 1983 and 1984, during the effective period of the suspension proposed in this legislation. As scheduled, the column 1 rate for TSUS item 709.57 will be 7.9 percent and 7.4 percent ad valorem in 1983 and 1984, respectively.

The rate of duty currently applicable to articles from Least Developed Developing Countries (LDDC's) [2] is 5.8 percent ad valorem. The column 2 rate, which applies to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS, is 40 percent ad valorem. Finally, this item is included on the list of eligible articles for purposes of the Generalized System of Preferences (GSP).[3]

---

[1] The rates of duty in rate of duty column numbered 1 are Mot-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

[2] The rates of duty in rate of duty column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are applicable to products of the least developed developing countries designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 applies.

STRUCTURE OF THE DOMESTIC INDUSTRY

The domestic industry includes five producers, one of which (Hosmer Dorrance) manufactures externally-powered devices for both adults and children. In October 1981, the latter firm began to produce devices designed especially for children 14 years of age and younger. Seventy such devices were produced in its first two production runs. Industry sources indicate that juveniles 17 years old and older are generally fitted with adult devices. The producers of such adult devices are as follows, including one firm which will begin production during 1982:

U.S. Manufacturing Company, Pasadena, Calif.
Hosmer Dorrance, Campbell, Calif.
Liberty Mutual, Boston, Mass.
Fidelity Electronics, Dayton, Ohio
Pope Brace, Greenwood, S.C.
Motion Control, Salt Lake City, Utah (in 1982)

The estimated number in the domestic production of externally-powered electric prosthetic devices for persons of all ages is about 200, for the five firms now in operation. The total number of workers employed by Hosmer Dorrance is 85.

DOMESTIC PRODUCTION

Industry sources indicate that domestic producers' shipments of devices for persons of all ages increased in value from approximately $96,000 in 1979 to $225,000 in 1981, or by 134 percent. Because of varying prices due to demand and quality, the number of units is not available from all domestic sources.

U.S. IMPORTS

Since imports of externally-powered electric prosthetic devices are included in a "basket" provision, separate data for these items are not available. Because foreign producers do not have U.S. representatives (except for Otto Boch of West Germany), users must purchase either through Canadian representatives or directly from the producers. Otto Boch, the sole U.S. commercial importer, estimated that its dollar value of U.S. imports grew from $200,000 in 1979 to around $250,000 in 1981, or by 25 percent.

Other possible sources of imports are:

Variety Village Electro Limb Fitting Co., Ontario, Canada
Systems Technique, Sweden

There are no known imports from column 2 sources.

U.S. EXPORTS

The value of U.S. exports of externally-powered electric prosthetic devices rose from an estimated $15,000 in 1979 to about $56,000 in 1981, an increase of 270 percent. Figures on the number of units exported are not available. In 1981, U.S. exporters were:

U.S. Manufacturing Company, Pasadena, Calif.
Hosmer Dorrance, Campbell, Calif.
Liberty Mutual Boston, Mass.

APPARENT U.S. CONSUMPTION

Since the exact value of imports of the devices included in the proposed legislation are not available, the value of apparent U.S. consumption cannot be determined. However, using only import data provided by Otto Boch, a major supplier of externally-powered prosthetic devices to the U.S. market, the estimated value of apparent U.S. consumption was $419,000 in 1981. This represents an increase in value of 49 percent over the 1979 figure of $281,000.

---

[3] The GSP under Title V of the Trade Act of 1974 provides duty-free treatment of specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985.

POTENTIAL ANNUAL LOSS OF REVENUE

Based on imports by Otto Boch in recent years, the potential loss of duty revenue from the enactment of this legislation is estimated to be less than $25,000 annually. However, certain sophisticated experimental externally-powered prosthetic devices are now being developed in Great Britain on a non-profit basis. It is difficult to assess the amount of revenue these products would generate if exported to the United States. Since these products will be of high quality, the potential revenue loss might be significantly greater.

TECHNICAL COMMENTS

The draft legislation would suspend duties on externally powered devices for "juvenile amputees". However, no definition or description of that group is included. This point is important because juveniles 17 years and older are generally fitted with adult size devices. It may be decided that duty-free entry should be provided for such imports, by deleting the word "juvenile" from the proposed new item. We note that if the word "juvenile" is deleted, all prosthetic devices would be free of duty if imported by an appropriate institution.

H.R. 4641

To provide for a three-year suspension of the duty on copper scale

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 4641, a bill:

"To suspend for three years the import duties on copper scale."

If enacted, H.R. 4641 would suspend for three years, starting on the date of the enactment of the bill, the import duties on copper scale entering under Tariff Schedules of the United States (TSUS) item 603.50, a category that includes metal-bearing ores and other metal-bearing materials to be initially treated at a copper, lead, or zinc plant.

Most imports of copper scale currently enter under TSUS item 603.50. The current column 1 duty rate on item 603.50 is 0.62¢ per lb. on copper content. The rate is scheduled to decrease incrementally until 1987 to 0.32¢ per lb. on copper content. This item also is included among those eligible for duty-free treatment under the Generalized System of Preferences (GSP).

Copper scale is a by-product formed during the production of copper. There is no domestic industry per se. Most copper scale is reused at copper plants.

The Department of Commerce does not object to the intent of H.R. 4641 but thinks that certain changes should be made to assure that the intent of this bill is realized.

The intent of the legislation is to suspend the duty on imports of copper scale used by chemical companies in the production of cuprous oxide, a primary ingredient in certain types of paints used on the bottom of ships. These chemical companies do not initially treat the copper scale at a copper plant. Thus, suspension of the duty on TSUS item 603.50, which pertains only to copper scale initially treated at a copper plant, would not benefit these companies.

Copper scale not initially treated at a copper plant currently enters the United States under TSUS item 603.70. This item also covers numerous other metal bearing materials, very little of which is copper scale. We do not recommend that the duty on all of item 603.70 be suspended. Accordingly, we recommend that the language of the bill should be changed to provide for a three-year suspension of the duty on copper scale entering under 603.70. An item to that effect should be provided in the Appendix of the Tariff Schedules.

Revenue loss from enactment of H.R. 4641 as presently drafted cannot be calculated since import data relating solely to copper scale is not readily available. Data on copper scale entering under TSUS 603.70 also cannot be calculated since separate data is not readily available.

Enactment of H.R. 4641 would have no impact on the revenues to or administrative costs of this Department.

We have been advised by the Office of Management and Budget that they have no objection to the submission of our letter to the Congress from the standpoint of the Administration's program.

Purpose of the legislation

H.R. 4641, if enacted, would amend the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) to provide for a three-year suspension of the column 1 rate of duty 1/ on copper scale classified in TSUS item 603.50. Subpart B of part 1 of the Appendix to the TSUS would be amended by adding new item 911.05, providing for duty-free entry of certain copper scale from column 1 countries commencing on the date of the enactment of the legislation. The column 2 2/ rate of duty would remain unchanged.

Description and uses

Copper scale is a low-grade metal bearing material used for the extraction of copper metal. It is the crust of metallic oxide formed by cooling hot copper in air, which is a part of the fabricating process. Copper metal is recovered from copper scale after it is accumulated and further processed.

Copper scale is not normally traded, except in cases where other metals of market value, such as arsenic or selenium, are present in it. Copper scale is used primarily by secondary smelters and refiners.

1/ The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

2/ The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

Tariff treatment

Copper scale is one of the materials embraced within the term "other metal-bearing materials of a type commonly used for the extraction of metal or as a basis for the manufacture of chemical compounds" in the tariff schedules. [1] If it is to be initially treated at a copper plant (as defined in headnote 2(d), part 1 of schedule 6), it is classified under item 603.50, a residual (basket) provision, so long as the market price of copper exceeds 24¢ per pound. The market price is calculated under the terms set forth in headnote 5, part 2C of schedule 6. When that price is below 24¢, the scale is classified in item 603.49. However, this item is virtually obsolete since the price of copper has been well above 24¢ per pound for a number of years and it is extremely unlikely that it will ever drop that low again. Imported copper scale which is to be initially treated at other than a copper plant, as defined in headnote 2(d), is classified in item 603.70.

---

[1] See headnote 2(b) to part 1 of schedule 6 of the TSUS.

The current rates of duty for these are set forth below:

	Rates of Duty		
	1	LDDC 1/	2
603.49................	0.92¢ per lb. on copper content + 0.69¢ per lb. on lead content + 0.63¢ per lb. on zinc content	0.7¢ per lb. on copper content + 0.5¢ per lb. on lead content + 0.5¢ per lb. on zinc content	4¢ per lb. on copper content + 1.5¢ per lb. on lead content + 1.67¢ per lb. on zinc content
603.50................	0.68¢ per lb. on copper content + 0.64¢ per lb. on lead content + 0.58¢ per lb. on zinc content	0.32¢ per lb. on copper content + 0.3¢ per lb. on lead content + 0.3¢ per lb. on zinc content	4¢ per lb. on copper content + 1.5¢ per lb. on lead content + 1.67¢ per lb. on zinc content
603.70................	6.9% ad val.	5% ad val.	30% ad val.

Future staged reductions in the column 1 duty rate resulting from the Tokyo Round of Multilateral Trade Negotiations are as follows:

1/ The rates of duty in rate of duty column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are applicable to products of the least developed developing countries designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 applies.

Modifications of column 1 rates of duty by Pres. Proc. 4707 (Tokyo Round), December 11, 1979, 44 F.R. 72348, as amended and Pres. Proc. 4768 (Customs Valuation Code), June 28, 1980, 45 F.R. 45135, as amended:

TSUS item	Prior rate	Rates of duty 1/, effective with respect to articles entered, or withdrawn from warehouse, for consumption on and after --							
		January 1, 1980 except as noted	January 1, 1981	January 1, 1982	January 1, 1983	January 1, 1984	January 1, 1985	January 1, 1986	January 1, 1987
603.49	1¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	0.96¢/lb. on copper content + 0.72¢/lb. on lead content + 0.65¢/lb. on zinc content	0.92¢/lb. on copper content + 0.69¢/lb. on lead content + 0.63¢/lb. on zinc content	0.89¢/lb. on copper content + 0.66¢/lb. on lead content + 0.61¢/lb. on zinc content	0.85¢/lb. on copper content + 0.62¢/lb. on lead content + 0.58¢/lb. on zinc content	0.81¢/lb. on copper content + 0.59¢/lb. on lead content + 0.56¢/lb. on zinc content	0.77¢/lb. on copper content + 0.56¢/lb. on lead content + 0.54¢/lb. on zinc content	0.74¢/lb. on copper content + 0.53¢/lb. on lead content + 0.52¢/lb. on zinc content	0.7¢/lb. on copper content + 0.5¢/lb. on lead content + 0.5¢/lb. on zinc content
603.50	0.8¢ per lb. on copper content + 0.75¢ per lb. on lead content + 0.67¢ per lb. on zinc content	0.74¢/lb. on copper content + 0.69¢/lb. on lead content + 0.62¢/lb. on zinc content	0.68¢/lb. on copper content + 0.64¢/lb. on lead content + 0.58¢/lb. on zinc content	0.62¢/lb. on copper content + 0.58¢/lb. on lead content + 0.53¢/lb. on zinc content	0.56¢/lb. on copper content + 0.52¢/lb. on lead content + 0.48¢/lb. on zinc content	0.5¢/lb. on copper content + 0.47¢/lb. on lead content + 0.44¢/lb. on zinc content	0.44¢/lb. on copper content + 0.41¢/lb. on lead content + 0.39¢/lb. on zinc content	0.38¢/lb. on copper content + 0.36¢/lb. on lead content + 0.35¢/lb. on zinc content	0.32¢/lb. on copper content + 0.3¢/lb. on lead content + 0.3¢/lb. on zinc content
603.70	7.5% ad val.	7.2%	6.9%	6.6%	6.3%	5.9%	5.6%	5.3%	5%

1/ The symbol "%" indicates percent ad valorem. The symbol "¢" indicates per stated unit of quantity.

Each of the items is designated as eligible for preferential duty-free treatment as to all beneficiary developing countries under the Generalized System of Preferences. 1/

Structure of the domestic industry

Copper scale is a product created during the process of fabricating copper rods or wire and is either reused by secondary smelters or traded for the market value of its metal content. Because the smelters and suppliers are also the consumers of copper scale, and because its production is incidental rather than purposeful, there is no domestic industry of producers of this article.

Domestic production

Production data are not available from Government or industry sources.

1/ The GSP under Title V of the Trade Act of 1974 provides duty-free treatment of specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985, unless modified by the President or terminated.

U.S. imports

Imports of metal-bearing materials (including copper scale) classified in item 603.50 in 1976-80 are shown in the table below, based on official U.S. statistics.

Copper metal-bearing materials (TSUS item 603.50): U.S. imports for consumption, by country, 1976-80

Source	1976	1977	1978	1979	1980
	Quantity (contained pounds)				
Canada	221,053	508,594	858,451	842,057	718,621
Chile	-	343,477	3,793,206	-	142,614
Bolivia	-	-	1,077,228	-	-
Republic of South Africa	-	-	785,423	-	-
Botswana	27,972,034	5,661,608	-	-	-
All other	-	322	42,938	71,081	-
Total	28,193,087	6,514,001	6,557,246	913,138	861,235
	Value (1,000 dollars)				
Canada	88	103	197	493	480
Chile	-	61	1,168	-	235
Bolivia	-	-	490	-	-
Republic of South Africa	-	-	2,221	-	-
Botswana	54,791	11,987	-	-	-
All other	-	1	17	50	-
Total	54,878	12,153	4,093	543	715

Imports of other metal-bearing materials (including copper scale) classified in item 603.70 in 1976-80 are shown in the table below, based on official U.S. statistics.

Other metal-bearing materials (TSUS item 603.70): U.S. imports for consumption, by country, 1976-80

Source	1976	1977	1978	1979	1980
	Quantity (contained pounds)				
Mexico	41,468,944	-	-	38,043,918	28,659,904
Fr Germany	2,462,177	1,099,724	4,269,488	2,925,753	2,341,459
Brazil	-	-	-	45,397,156	-
Australia	-	27,831,972	22,121,736	-	-
Malaysia	-	50,309,025	211,643	211,642	105,822
Japan	170,715	22,054,459	2,882,922	24,357	3,972
All other	4,246,210	2,392,269	3,960,499	4,456,920	2,505,219
Total	48,348,046	103,687,449	33,446,288	91,059,746	33,616,376
	Value (1,000 dollars)				
Mexico	1,075	-	-	803	679
Fr germany	3,179	4,931	11,872	37,023	57,589
Brazil	-	-	-	1,394	-
Australia	-	1,395	1,840	-	-
Malaysia	-	4,552	912	1,015	677
Japan	93	1,717	689	133	186
All other	917	924	818	461	4,947
Total	5,264	13,519	16,131	40,829	64,078

U.S. exports

Exports of copper metal-bearing materials in 1976-80 are shown in the following table, based on official U.S. statistics.

Copper metal-bearing materials: U.S. exports of domestic merchandise, by country, 1976-80

	1976	1977	1978	1979	1980
	Quantity (pounds)				
Belgium	2,209,774	11,404,957	12,820,684	6,425,330	6,850,719
Japan	637,934	332,201	288,085	435,407	4,351,441
Fr Germany	4,914,056	1,877,045	2,022,484	376,458	333,598
U Kingdom	234,654	822,346	1,364,893	1,351,418	1,592,373
Canada	1,000,820	5,618,319	1,600,794	1,534,727	768,000
All other	1,228,212	3,603,765	2,023,656	1,394,417	1,272,848
Total	10,225,450	23,658,633	20,120,596	11,497,757	15,168,979
	Value (dollars)				
Belgium	1,473,548	2,623,925	4,741,943	5,568,058	8,494,921
Japan	559,539	571,186	479,431	861,479	3,991,878
Fr Germany	642,597	833,532	459,412	635,667	1,200,846
U Kingdom	207,569	354,455	631,055	822,890	862,560
Canada	399,920	913,286	751,450	449,026	476,250
All other	173,780	686,342	529,786	1,077,427	447,597
Total	3,456,953	5,991,726	7,593,077	9,414,547	15,474,052

Apparent U.S. consumption

Domestic consumption cannot be estimated accurately because of the absence of data on domestic production.

Potential annual loss of revenue

Revenue loss as to copper scale classified under item 603.50, based on 1980 data, would have amounted to approximately $6,373, based on imports of 861,235 pounds with a duty rate of 0.74¢ per pound.

Technical comments

The bill, as currently drafted, provides only for the suspension of duty on copper scale provided for in TSUS item 603.50; that is, copper scale to be initially treated at a copper plant. It is our understanding, however, that one of the principal proponents of this legislation is a company which imports copper scale but is not a copper plant. Its imports are therefore classified under TSUS item 603.70 and would be unaffected by this legislation.

If the intent of the legislation is to grant relief as to all imports of copper scale—that is, scale classified in both item 603.50 and item 603.70—then "item 603.50," should be deleted and "items 603.50 and 603.70," inserted. However, if relief from duty is to be given only to importers which are not copper plants as defined in the headnote, then it may be preferable to employ one of the following alternatives. First, "603.50" may be deleted from the proposed item and "603.70" inserted. Second, a new item might be created in schedule 6 to provide for copper scale imported by other than copper plants, as defined, with specified duty rates. An item suspending the column 1 duty could then be provided in the Appendix.

It is suggested that the words following "on or after" be deleted and "6/30/85" be inserted, to ease administration by setting a definite effective period for the suspension.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., May 26, 1982.

Hon. SAM GIBBONS,
Chairman, House Subcommittee on Trade,
Washington, D.C.

DEAR SAM: I greatly appreciated the scheduling of hearings on my bill, H.R. 4641, which provides for a three-year suspension of the duty on copper scale. I introduced this legislation at the request of the American Chemet Corporation, Deerfield, Illinois.

During Trade Subcommittee mark-up of my bill, H.R. 2479, I attempted to include language that would have suspended duties on waste copper scrap that would be processed or oxidized. The Subcommittee agreed to this language. However, later discussions with the U.S. Customs Service revealed problems that would arise with the inclusion of oxidation in H.R. 2479. Subsequently, the U.S. International Trade Commission recommended that separate legislation be introduced to remove the duty on copper scale. I followed this recommendation and introduced H.R. 4641.

The U.S. International Trade Commission, in its report to the House Trade Subcommittee, embraced the bill but recommended that it be modified. The I.T.C. report stated, "If the intent of the legislation is to grant relief as to all imports of copper scale, that is scale classified in both item 603.50 and item 603.70, then item 603.50 should be deleted and items 603.50 and 603.70 inserted. However, if relief from duty is to be defined in the headnote, then it may be preferable to employ one of the following alternatives. First, 603.50 may be deleted from the proposed item and 603.70 inserted."

I fully agree with the first recommendation of the I.T.C. and would request that during Subcommittee mark-up of H.R. 4641 this suggestion be incorporated into the bill.

The Administration supports the intent of the legislation with the proposed change.

Realizing the very heavy schedule of the Subcommittee, Mr. William W. Shropshire, President of the American Chemet Corporation, declined to appear in person. However, he has requested that the accompanying statement be made part of the official Subcommittee hearing record. I hope Mr. Shropshire's statement could be included in the hearing record along with this letter.

Thank you for your attention to this matter. With every good wish,

Sincerely,

GUY VANDER JAGT,
Member of Congress.

STATEMENT OF WILLIAM W. SHROPSHIRE, PRESIDENT, AMERICAN CHEMET CORP.

Mr. Chairman and Members of the Subcommittee, H.R. 2479, introduced by Congressman Guy Vander Jagt during the First Session of the 97th Congress and approved by the House of Representatives on October 13, 1981, provides for the suspension of duty on copper waste and scrap when this material is to be used in remanufacture by melting or is to be processed by shredding, shearing, compacting, or similar processing which renders it fit only for the recovery of metal content. Thus a smelter, refiner or scrap processor importing Canadian scrap copper does so duty free.

My company, the American Chemet Corporation, produces cuprous oxide from a copper scrap item called rod mill scale. We import part of our requirements from Canada, (approximately 3 million pounds per year), because U.S. copper rod producers do not generate all of the quantity we need. We currently have to pay a duty of $.08 per pound of contained copper on all scale we import from Canada because we do not manufacture our product by melting, nor do we shred, shear, compact, etc. A smelter or refiner importing the same produce would not pay any duty whereas we do. This obviously works an economic hardship on our small company and discriminates against our application for rod mill scale.

After much discussion with Congressman Vander Jagt and the International Trade Commission, H.R. 4641 was introduced to eliminate the discrimination which currently exists.

The suspension of duty on copper waste moving in from Canada is appropriate public policy because the U.S. is not self sufficient in the production of refined copper. Historically, the U.S. produces about 92 percent of our copper needs from domestic mines and domestic scrap recycling. The remainder must be imported in one form or another. Thus the need for a duty suspension of Canadian scrap.

Since we are recycling copper from imported scraps for a domestic end use application, (the active ingredient in antifouling marine paint of which the U.S. Navy is the largest single consumer), I believe my application should also be granted duty free entry. I greatly appreciate the subcommittee's assistance in taking action to reflect this belief.

Again Mr. Chairman, thank you for scheduling H.R. 4641 for hearings before the House Subcommittee on Trade.

H.R. 4642

To suspend the duty on isomeric mixtures of ethylbiphenyl

DEPARTMENT OF STATE

We are responding to your request for the views of the Department of State on H.R. 4642, a bill providing duty free entry for isometric mixtures of ethylbiphenyl.

The Department of State has no objection to the enactment of the proposed legislation. We understand the ethylbiphenyl mixtures of interest are not produced in the United States. In such circumstances the obligation to pay duty imposes an unnecessary cost burden on domestic users and we believe it should be removed.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

DEPARTMENT OF THE TREASURY

This is in reply to your request for the views of the Department of the Treasury concerning H.R. 4642, a bill "To suspend the duty on isomeric mixtures of ethylbiphenyl."

Section 1 of the bill would suspend until June 30, 1985, the duty on isomeric mixtures of ethylbiphenyl. Section 2 of the bill provides that the duty suspension would be applicable to entries and warehouse withdrawals made on or after the date of enactment of the bill.

The Department of the Treasury does not object to suspending the duty on isomeric mixtures of ethylbiphenyl. Ethylbiphenyl, a heat transfer agent used in chemical manufacturing processes, is not produced in the United States. Accordingly, a suspension of the duty on ethylbiphenyl would not adversely impact on U.S. domestic industry.

The Department, however, strongly recommends that section 2 of H.R. 4642, as well as all proposed legislation amending the Tariff Schedules of the United States, provide for an effective date which is at least 15 days after the date of enactment. This would permit the U.S. Customs Service to notify its field offices and the public of the details of the new law. Similarly, the many customs brokers who use computers to prepare entry documentation require time to update their data bases with the new information. When laws are enacted changing the duty status of imported merchandise, the U.S. Customs Service invariably receives complaints, from the public regarding the lack of timely notification.

Subject to amending the effective date provision, the Department of the Treasury does not object to the enactment of H.R. 4642.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 4642, a bill: "To suspend the duty on isomeric mixtures of ethylbiphenyl."

If enacted, H.R. 4642 would amend the Tariff Schedules of the United States (TSUS) to provide for the duty-free entry of isomeric mixtures of ethylbiphenyl through June 30, 1985 from countries receiving column-1, most-favored-nation (MFN) tariff treatment. The column-2, statutory rate of duty (7 cents per pound plus 43.5 percent ad valorem, but not less than the highest rate applicable to any component material) would not be affected by the proposed legislation. Isomeric mixtures of ethylbiphenyl currently enter the United States under TSUS item 407.16, a basket category, and are subject to a rate of duty of 1.7 cents per pound plus 13.6 percent ad valorem, but not less than the highest rate applicable to any component material.

The Department has no objection to enactment of H.R. 4642 if certain changes are made in section 2.

The Department is unaware of any domestic production of isomeric mixtures of ethylbiphenyl. U.S. consumers of these mixtures currently rely on imports to satisfy their needs.

The Department recommends that section 2 be revised to provide for an effective date which is at least 15 days after the date of enactment. This would allow the

Customs Service to notify its field offices and the public of the details of the new law.

Total annual imports of ethylbiphenyl all of which are probably mixtures, are estimated to have been 141,000 pounds in 1980. The revenue loss for the first year would be approximately $17,000.

Enactment of H.R. 4642 would have no impact on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that they have no objection to the submission of our letter to the Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 4642, if enacted, would provide for the temporary duty-free entry from column 1[1] countries of isomeric mixtures of ethylbiphenyl, Tariff Schedules of the United States (TSUS) item 407.16. Subpart B of part 1 of the Appendix to the TSUS would be amended by adding a new item, 907.13, suspending the column 1 rate of duty on mixtures of 3-ethylbiphenyl(m-ethylbiphenyl) and 4-ethylbiphenyl(p-ethylbiphenyl) from the date of enactment until on or before June 30, 1985. The column 2 rate of duty[2] would remain unchanged.

BACKGROUND INFORMATION

These organic chemical mixtures consisting of 3-ethylbiphenyl and 4-ethyl-biphenyl are produced synthetically from petroleum. They are used primarily as heat transfer agents in the production of various resins (e.g., polystyrene). According to the domestic user of these mixtures, there are no domestically produced chemicals which can be substituted at a competitive price.

TARIFF TREATMENT

Mixtures of 3-ethylbiphenyl and 4-ethylbiphenyl are classifiable in TSUS item 407.16, other mixtures in whole or in part of any of the products provided for in schedule 4, part 1, subpart B of the TSUS. Item 407.16 is presently dutiable at a column 1 (MFN) rate of 1.7 cents per pound plus 13.6 percent ad valorem, but not less than the highest rate applicable to any component material. The column 2 rate is 7 cents per pound plus 43.5 percent ad valorem, but not less than the highest rate applicable to any component material. No LDDC rate of duty[3] has been provided. The column 1 rate of duty for this item number is not scheduled for annual staged reductions within the framework of the Tokyo round of the Multilateral Trade Negotiations.

In 1980, the ad valorem equivalent (AVE) for this product, based on a duty rate of 1.4 cents per pound plus 17.3 percent ad valorem,[4] was 19.4 percent.

Mixtures of 3-ethylbiphenyl and 4-ethylbiphenyl are eligible for duty-free entry under the Generalized System of Preferences (GSP).[5]

---

[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

[2] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[3] The rates of duty in rate of duty column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are applicable to products of the least developed developing countries designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 applies.

[4] This duty rate is provided for in item 402.36, the highest rate applicable for the component material.

[5] The GSP under Title V of the Trade Act of 1974 provides duty-free treatment of specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985, unless modified by the President or terminated.

STRUCTURE OF THE DOMESTIC INDUSTRY

At the present time, mixtures of 3-methylbiphenyl and 4-ethylbiphenyl are not produced in the United States. There is also no indication of any domestic production of these mixtures in the past 5 years. Dow Chemical Co., however, is considering the production of these mixtures in the United States in the future if a viable market for the finished product can be developed.

U.S. IMPORTS

In 1980, imports of these mixtures, by quantity,[6] amounted to 141,094 pounds.[7] The only importer was Dow Chemical Co., Midland, Michigan; the imports came from Dow's subsidiary firm located in Japan. Official statistics for years prior to 1980 do not separately indicate the level of imports of this product, because of its classification in a "basket" provision.

U.S. EXPORTS

Prior to 1980, there were no exports of these mixtures from the United States. In 1980, Dow Chemical Co. exported approximately 10,000 pounds to its subsidiary firm in Canada.

APPARENT U.S. CONSUMPTION

Industry sources indicate that since the mixtures are not produced domestically, domestic consumption is approximately the same as the quantity of imports less any exports.

POTENTIAL ANNUAL LOSS OF REVENUE

Based upon information provided by the domestic user and importer of these mixtures, the following table shows estimated annual revenue losses for a three-year period from 1982 through 1984, assuming the proposed legislation is enacted:

Year:	*Estimated revenue loss* [1]
1982	$108,000
1983	150,000
1984	204,000

[1] Based on an estimated value of $0.77 per pound in 1982, $0.93 per pound in 1983, and $1.02 per pound in 1984. Imports are estimated at 740,000 pounds in 1982, 870,000 pounds in 1983, and 1,100 thousand pounds in 1984.

DEPARTMENT OF LABOR

This is to respond to your request for the views of the Department of Labor on H.R. 4642, a bill "[t]o suspend the duty on isomeric mixtures of ethylbiphenyl."

The Department of Labor has no objection to enactment of H.R. 4642.

This bill would suspend the column 1 rate of duty on imports of isomeric mixture of ethylbiphenyl until June 30, 1985. Such mixtures are currently classified under item 407.16 of the Tariff Schedules of the United States which is a basket category providing a column 1 duty of 1.7 cents per pound plus 13.6 percent *ad valorem*, but not less than the highest rate applicable to any component of the mixture.

The Department of Labor has received information indicating that isomeric mixtures of ethylbiphenyl are not produced in the United States, and that domestic consumers are dependent on imports. Because there is no domestic production of this chemical mixture, it is unlikely that a duty suspension will have an adverse effect uon employment in the United States.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program

---

[6] Value of imports is not available.

[7] Source: U.S. International Trade Commission, "Imports of Benzenoid Chemicals and Products, 1980."

H.R. 4690

To allow articles withdrawn from a bonded manufacturing warehouse to be delivered into successive bonded storage warehouses located anywhere in the United States for the purpose of exportation, and for other purposes

DEPARTMENT OF STATE

We are responding to your request for the views of the Department of State on H.R. 4690, a bill dealing with the withdrawal of merchandise from a bonded manufacturing warehouse.

The Department of State supports enactment of the proposed legislation. It would, in effect, liberalize the statutory provisions governing the operation of bonded manufacturing warehouses and, in doing so, promote the growth of United States exports.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

DEPARTMENT OF THE TREASURY

This is in reply to your request for the views of the Department of the Treasury concerning H.R. 4690, a bill "To allow articles withdrawn from a bonded manufacturing warehouse to be delivered into successive bonded storge warehouses located anywhere in the United States for the purpose of exportation, and for other purposes."

Section 311 of the Tariff Act of 1930 (19 U.S.C. 1311) currently provides that articles withdrawn from a bonded manufacturing warehouse can only be transported to a bonded storage warehouse located "at an exterior port" for the purpose of "immediate export." The bill would amend this provision to permit articles withdrawn from a bonded manufacturing warehouse to be transported to any bonded storage warehouse in the United States. The bill would further provide that such transportation to a storage warehouse need only be for the ultimate purpose of export.

The Department of the Treasury supports the enactment of H.R. 4690. The amendments proposed by the bill would facilitate the movement for storage of articles withdrawn from a bonded manufacturing warehouse without adversely impacting upon the interests of the Federal Government.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

H.R. 4806

To eliminate the duty on allyl resins

DEPARTMENT OF STATE

We are responding to your request for the views of the Department of State on H.R. 4806, a bill providing duty free entry for allyl resins.

The Department of State would favor enactment of the proposed legislation if it were amended to apply to allyl prepolymer resins only and to provide for a temporary suspension of the duty in lieu of its elimination. The latter amendment would provide an opportunity to review the industry's operating experience under the proposed legislation during a period in which it is undergoing structural adjustment.

We are informed that the sole domestic producer recently discontinued the production of allyl resins and, in anticipation of that event, one of its customers undertook the manufacture of such resins to meet its own needs. We understand the current producer intends to expand production through the construction of a new plant but will not be able to meet demand beyond the firm's own requirements for at least two years.

In such circumstances, a temporary duty suspension is not likely to have an adverse impact on the domestic industry. On the other hand, other American enterprises using allyl resins would be able to obtain needed raw materials at lower cost, thereby improving their competitive position in the market, making possible lower prices to consumers and easing inflationary pressure on the United States economy.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 4806, a bill: "To eliminate the duty on allyl resins."

If enacted, H.R. 4806 would amend the Tariff Schedules of the United States (TSUS) to eliminate the column-1, most-favored-nation duty and the LDDC-column duty applicable to imports of allyl resins. Imports of allyl resins are classified under TSUS item 408.96 and have a January 1, 1982, column-1, MFN duty rate of 8.4 percent ad valorem and a LDDC-column duty rate of 5.8 percent ad valorem. The column-1, MFN duty rate is being reduced in stages under the Multilateral Trade Negotiations agreements and in 1987 the final column-1, MFN duty rate will be 5.8 percent ad valorem. The statutory (column-2) duty rate of 7 cents per pound plus 45 percent ad valorem would be unaffected by this bill.

The Department of Commerce would have no objection to enactment of H.R. 4806 if it were amended as noted below.

The Department recommends that the bill be amended to provide for a two-year duty suspension, rather than a permanent duty elimination. As a general rule, this Department favors the use of a temporary duty suspension rather than permanent duty elimination when a tariff is removed by unilateral action. This provides an opportunity to observe the effects of the duty elimination over a trial period.

Furthermore, this Department recommends that the bill be amended to provide for a duty suspension only on allyl prepolymers. The intent of the bill is to eliminate the duty on allyl resins, the prepolymers. We note that TSUS item 408.96 includes both prepolymers and allyl molding compounds, although nearly all U.S. imports in 1981 under TSUS item 408.96 were prepolymers, which were then further processed by U.S. manufacturers of molding compounds.

U.S. users of prepolymers must rely almost exclusively on imported prepolymers. There is one U.S. producer of the prepolymer diallylisophthalate (DAIP). This firm currently produces for captive use, but is expected to be able to meet part of market demand by mid-1982, with production capacity potentially equalling total U.S. demand by late 1983. We think that a two-year suspension would have no adverse effect on these plans.

Unlike the situation for prepolymers, there are five U.S. producers of allyl molding compounds. A temporary duty suspension that includes allyl molding componds could provide an unwarranted incentive to foreign manufacturers of molding compounds.

Section 2 provides that the lower rate of duty on allyl resins would apply to entries and warehouse withdrawals made on or after the date of enactment of the bill. The Department recommends that the bill provide for an effective date which is at least 15 days after the date of enactment. This approach would allow the U.S. Customs Service time to notify its field offices and the public of the details of the new law.

Total duties assessed in 1981 on TSUS item 408.96 were $265,324.

Enactment of H.R. 4806 would have no impact on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that they have no objection to the submission of our letter to the Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

Purpose of the legislation

H.R. 4806, if enacted, would amend item 408.96, allyl resins (e.g., diallyl phthalate), 1/ subpart C of part 1 of schedule 4 to the Tariff Schedules of the United States (TSUS), by striking out "9 percent ad valorem" in rate of duty column 1 2/ and inserting in lieu thereof "free"; and by striking out "5.8 percent ad valorem" under the least developed developing countries (LDDC) rate of duty column 3/ and inserting in lieu thereof "free". Only imports from column 2 4/ countries would continue to be dutiable.

The provisions of this legislation would apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after its date of enactment.

1/ Nonbenzenoid allyl resins are classified under item 445.15, subpart A of part 4 of schedule 4 and woul[illegible]e subject to the provisions of this bill.

2/ The rates of duty in rate c[illegible]olumn numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries since they are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

3/ The rates of duty in rate of duty column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are applicable to products of the least developed developing countries designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 applies.

4/ The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

Description and uses

Allyl resins are a special class of polyester resins derived from esters of allyl alcohol and dibasic acids. The resins are prepolymers [1] and include two compounds of commercial significance, diallyl phthalate and diallyl isophthalate, known by the acronyms DAP and DAIP, respectively. However, the simpler monomers [2] from which these prepolymers are made are also known as DAP and DAIP. These monomers are made by reacting phthalic anhydride with allyl alcohol. In addition to being used in the manufacture of DAP and DAIP prepolymer resins, the monomers, especially DAP, also are used as cross-linking agents [3] for unsaturated polyester resins. These monomers are classified in TSUS item 404.36.

The prepolymer resins are used to make molding compounds by combining them with fillers and other additives. The resins are usually sold as fusible prepolymers to plastics fabricators which incorporate reinforcing fibers, fillers, flame retardants and other additives to make the molding compounds. Imports of both these prepolymer resins and the molding compounds are classified under TSUS item 408.96. These allyl molding compounds are normally sold to an end user who then converts them to an infusible, thermoset allyl polymer which is usually an integral part of an electrical/electronic component.

Prepolymer resins are also used by the electrical/electronic industry to make components containing the final plastic product, which is an infusible thermoset resin. The infusible thermoset resin is not imported in that form but as an integral part of an electrical/electronic component which is entered under the appropriate TSUS item number for the component. Industry sources 1/ report that about 90 percent of the domestically marketed allyl prepolymer resins are used to produce allyl molding compounds, while 10 percent are used in such other applications as preimpregnated glass cloths and papers, and sealants for metal castings.

---

[1] Prepolymer: A polymer of relatively low molecular weight usually intermediate between that of a monomer or monomers and the final polymer or resin, which is capable of being hardened by further polymerization during or after a forming process.

[2] Monomer: A term used to describe a relatively simple chemical compound of low molecular weight which can react to become a plastics material (polymer) by combination with itself or with other similar compounds.

[3] Cross-linking agent: A substance that promotes or regulates the setting up of chemical links between the individual molecular chains. Crosslinking, when extensive, makes a single infusible super-molecule of all the chains.

DAP and DAIP prepolymer resins exhibit excellent electrical properties such as high insulation resistance and low electrical losses at temperatures in excess of 400°F. Because of these properties, about 75 percent of the DAP and DAIP molding compounds is consumed domestically in the manufacture of high performance electrical/electronic connectors in communications, computer, and aerospace systems. The remaining 25 percent is used in the manufacture of other electrical/electronic parts such as bobbins, switches, and circuit boards.

Tariff treatment

The column 1 rate of duty applicable to imports of allyl prepolymer resins and allyl molding compounds covered by TSUS item 408.96 is 8.4 percent ad valorem. This rate represents the third of eight annual reductions, the first of which was effective July 1, 1980. These staged duty modifications, negotiated under the Tokyo round of Multilateral Trade Negotiations (MTN), are shown in the following tabulation:

1/ Based on information developed during telephone conversations.

Year	Rate of duty 1/ effective with respect to articles entered on or after Jan. 1
1980 2/	0.7¢/lb. + 9% 3/
1981	9%
1982	8.4%
1983	7.9%
1984	7.4%
1985	6.9%
1986	6.3%
1987	5.8%

1/ The symbol "%" indicates "percent ad valorem."
2/ The first rate reduction became effective July 1, 1980. Before July 1, 1980, the column 1 rate was 1.4¢ per pound + 9 percent ad valorem.
3/ Represents an average ad valorem equivalent (AVE) of 13.9 percent based on 1980 imports.

The column 2 rate of duty is 7 cents per pound plus 45 percent ad valorem and would remain unchanged as a result of this legislation. Allyl prepolymer resins and allyl molding compounds are eligible for preferential duty-free treatment under the Generalized System of Preferences. 1/

Structure of the domestic industry

The FMC Corp. of Philadelphia, Pa., was the only domestic producer of DAP and DAIP prepolymer resins. These resins were produced at their Baltimore, Md., plant. In mid-1980, FMC Corp. ceased production of both DAP and DAIP prepolymer resins, but continued producing the DAP and DAIP monomers at the facilities in Baltimore. Hardwicke Chemical Co. of Richmond, Va., is the only other domestic producer of the DAP and DAIP monomers. 2/ Hardwicke's

---

1/ The GSP under Title V of the Trade Act of 1974 provides duty-free treatment of specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985, unless modified by the President or terminated.

2/ Based on information in The 1981 Directory of Chemical Producers, SRI International, Menlo Park, Calif., p. 535.

monomer facility is located in South Carolina. All production of these monomers is currently used for cross-linking unsaturated polyester resins.

FMC cited its inability to recover raw material costs, high capital requirements, and increasing market competition from newer resins--especially engineering thermoplastic resins--as the leading reasons for leaving the DAP and DAIP prepolymer resin business. 1/ Cosmic Plastics Inc. of San Fernando, Calif., a producer of DAP and DAIP molding compound resins and a former purchaser of FMC's DAP and DAIP prepolymer resins, has stated 2/ that it will build a new plant to produce its new grades of DAP and DAIP prepolymer resins. A company official 3/ stated that Cosmic makes only enough DAIP prepolymer resins for its own needs. The firm would not be ready for commercial production until mid-1982, at which time it would be able to supply only part of U.S. demand. This firm reportedly would not be able to meet total U.S. demand for DAP and DAIP prepolymer resins until late 1983.

U.S. demand for DAP prepolymer resins is now being met totally by Osaka Soda of Tokyo, Japan, the only remaining producer of DAP prepolymer resins. 4/ Osaka Soda did not start producing the DAIP prepolymer resins until late in 1981 after FMC exited the market. It now also offers this resin in the United States.

Domestic production

Separate production data are not available for DAP and DAIP prepolymer resins since FMC Corp. was the only domestic producer. However, industry

---

1/ "FMC Drops DAP Prepolymers," Plastics Technology, Aug. 1980, p. 113.
2/ Chemical Marketing Reporter, Dec. 8, 1980, pp. 4, 37.
3/ Based on information developed during telephone conversations.
4/ "FMC Drops DAP Prepolymers," p. 113.

sources 1/ estimate that the domestic output of DAP and DAIP prepolymer resins probably did not exceed 5 million pounds nor $4 million annually during 1976-80. Industry sources estimate that these figures declined by about 50 percent in 1981 when FMC ceased production even though Cosmic started production in 1981. The DAP prepolymer resins reportedly represented 80 percent or better of the aggregated annual volume and value of production during 1976-80.

U.S. imports

Import statistics for the allyl prepolymer resins and allyl molding compounds covered here by item 408.96 2/ did not become separately available until January 1, 1978, and are shown below for 1978-80:

Year	Quantity (1,000 pounds)	Value (1,000 dollars)
1978	1,444	2,046
1979	1,716	2,486
1980	2,062	2,952

For the period January through October 1981, these imports amounted to 2,098,000 pounds, valued at $2,573,000, or at an annualized rate in excess of 2.5 million pounds, valued at about $3.1 million. These statistics include data not only for DAP and DAIP prepolymer resins but also for DAP and DAIP molding compounds. Some of these allyl molding compound imports are replacing previous U.S. production which used the allyl prepolymer resin made by FMC. Japan was the source of about 95 percent of these imports in 1978 and virtually all of the above imports in 1979, 1980, and January through October 1981.

1/ Based on information developed during telephone conversations.

2/ Through June 30, 1980, the allyl resins covered here were classified under item 405.2563.

There are five domestic producers of DAP and DAIP molding compounds and they now import the prepolymer resins. These firms and their locations are given below:

Firm	Headquarters/plant location
Cosmic Plastics, Inc.	San Fernando, Calif.
Durez Division, Hooker Chemicals & Plastics Corp.	Niagara Falls, N.Y.
Plaskon Products, Inc.	Toledo, Ohio
Rogers Corp.	Rogers, Conn.
U.S. Prolam, Inc.	Stamford, Conn.

Industry sources 1/ report that Cosmic, Plaskon, and Rogers have been importing the DAP prepolymer resins in significant quantities for several years from Osaka Soda, while Durez and U.S. Prolam started importing these materials in 1981.

U.S. exports

Official export statistics for allyl prepolymer resins and allyl molding compounds are not separately available. However, industry sources 1/ estimate that annual exports of DAP and DAIP prepolymer resins were between 200,000 to 400,000 pounds per year during 1976-79 before declining sharply in 1980 to an estimated 100,000 pounds or less, while an additional 100,000 to 300,000 pounds of these resins have been exported annually during this period in the form of molding compounds. Western Europe reportedly was the principal market for all of these exports. FMC was the chief exporter of the DAP and DAIP prepolymer resins, while the aforementioned producers of the allyl molding compounds were the leading exporters of these materials.

1/ Based on information developed during telephone conversations.

Apparent U.S. consumption

Industry sources estimate [1] that during 1976-79, domestic consumption of DAP and DAIP prepolymer resins annually exceeded production by about 40 percent or more; and in 1980, consumption exceeded production by more than 80 percent. Imports have accounted for virtually all of the domestic consumption in 1981.

These sources estimate that domestic consumption of DAP and DAIP prepolymer resins remained flat at 4.5 to 6.0 million pounds per year during 1976-79 before dropping to about 4.0 million pounds in 1980, and to less than 3.0 million pounds in 1981. Competition from newer resins for the electrical/electronic market was reported to be the reason for the early no-growth situation, and the economic downturn, for the drop in 1980 and 1981.

Potential annual loss of revenue

Based on 1980 import data, the total customs revenue collected for item 408.96 was $288,996. However, for the first 10 months of 1981, this figure was $231,587, down 7 percent, as compared with $249,239 for the corresponding period a year earlier. As Cosmic supplies more of U.S. needs, total revenue could be expected to decline as imports decrease.

Technical comments

Since the legislation would eliminate the column 1 rate of duty for item 408.96, the LDDC column should be left blank since the rate of duty provided for in column 1 shall apply. [2] The item would then be consistent with the remainder of the tariff schedules. Thus, it is suggested that the language following "5.8% ad val." be deleted and a period inserted in lieu thereof.

---

[1] Based on information developed during telephone conversations.
[2] See General Headnote 3(d) of the TSUSA.

The proposed legislation deals only with duty rates for allyl resins. However, it may provide an opportunity to correct a problem in item 408.96. Because both the monomer and the prepolymer resins are known as diallyl phthalate or diallyl isophthalate, the existing article description in item 408.96 creates some confusion. The parenthetical language which now follows allyl resins "(e.g., diallyl phthalate)," appears to refer to both the monomers and the prepolymers. Since only the latter should be included in item 408.96, the parenthetical language should probably be removed. This change would help to eliminate possible confusion as to the articles properly covered by item 408.96. A subsection could be added following the word "assembled" as follows:

> "(a) That item 408.96 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out the parenthetical matter "(e.g., diallyl phthalate)".

The subsection designation "(b)" could then be inserted and the word "further" inserted after the next appearance of the word "is". Since the column 1 rate dropped to 8.4 percent on January 1, 1982, "9%" should be deleted from the proposed legislation and "8.4%" inserted.

H.R. 4844

To amend the Tariff Schedules of the United States to permit the duty-free entry of materials certified by the National Aeronautics and Space Administration as intended to be launched into space or to be spare parts or necessary and uniquely associated support equipment for use in connection with such launches, and for other purposes

U.S. INTERNATIONAL TRADE COMMISSION

Purpose of the legislation

H.R. 4844, if enacted, would permit the duty-free entry into the United States of materials certified by the National Aeronautics and Space Administration (NASA) as intended to be launched into space, or to be spare parts or "necessary and uniquely associated support equipment" for launches. Subpart A of part 3 of schedule 8 of the Tariff Schedules of the United States (TSUS) would be amended by adding a new item 837.00 to provide for such materials. A new headnote would be added to subpart A to provide that the return of materials from space shall not be considered an importation requiring entry. These provisions would be effective as to materials entered into the United States between January 1, 1982 and December 31, 1994.

Description and uses

Two distinct types of materials would be included in the new provisions. First, NASA would be able to import without payment of duty equipment manufactured abroad which is to be launched into space. The Spacelab flight units, made by the European Space Agency, and the Remote Manipulator System units, made in Canada for the Space Shuttle program, are examples of such materials.

Second, materials brought into the United States by other countries under launch agreements with NASA, whereby the use of launch facilities in the United

States is made available for a fee, would be duty-free. These materials are imported only temporarily since they are to be launched into space.

Tariff treatment

At present, many of NASA's imports of materials purchased for launch are classified in TSUS item 851.60. This item includes instruments and apparatus entered for the use of any public or private nonprofit institution, established for educational or scientific purposes, where no instrument or apparatus of "equivalent scientific value" is manufactured in the U.S. The articles entered under item 851.60 are free of duty.

However, under the terms of headnote 6, part 4 of schedule 8 of the TSUS only certain articles are "instruments and apparatus" eligible for duty-free entry as provided in item 851.60. Duty must be paid on all other materials unless otherwise exempt. 1/ In addition, prior to the entry of each article under item 851.60, the institution wishing to import must apply for permission to do so with the Secretary of the Treasury. The importation also must be approved by the Secretary of Commerce (following publication in the Federal Register and comments from interested persons or agencies on the proposed purchase order), and in effect, by the Secretary of Health, Education and Welfare (now Health and Human Services). The reviewing authorities must determine if the article in question is among those enumerated by the above headnote and ascertain that no article of "equivalent scientific value" is domestically available. Appeal of any such findings must be made to the Court of Customs and Patent Appeals; appeals may deal only with questions of law. If after this process the application is rejected, then the appropriate

---

1/ See, e.g., TSUS items 694.61 and 694.67.

rate of duty for the article based on its classification elsewhere in the TSUS must be paid or the purchase cancelled.

Under proposed item 837.00, NASA would be permitted to certify that materials being imported were either to be launched into space, to be spare parts, or to be "necessary and uniquely associated support equipment" for a launch. Items thus certified to the Commissioner of Customs would be free of duty at importation, while non-launch-related materials would still be handled under the process of item 851.60 or classified elsewhere if not within the headnote's definition. The new item would include both NASA's purchases and the temporary importations under launch contracts with NASA, and would provide duty-free entry to eligible articles from any country. There is no requirement that a comparable domestic article be unavailable.

Present law does not provide specifically for the treatment of satellites of foreign origin which are to be retrieved intact by the Space Shuttle, since such retrieval has been impossible. Other articles, such as rockets and space capsules, which fall to earth are classifiable (if entry is made) in either item 800.00 or item 801.00, depending upon their place of manufacture, and are free of duty. When satellite retrieval begins, they may be classified in these items unless drawback is claimed or imported temporarily under bond.

U.S. imports and exports

Since NASA's imports, whether under item 851.60 or elsewhere, are not separately reported, data as to their value and sources are unavailable. Prospective imports, as to which NASA has been denied the duty-free entry of item 851.60, include a $20 million Remote Manipulator System and a Spacelab unit of unknown value.

No official statistics are available indicating exports of space materials, comparable to those imported, since item 851.60 is designed to extend free entry only if no comparable article is domestically produced. Exports of other space materials are not separately available.

Structure of the domestic industry

The domestic aerospace industry includes a wide range of producers, with an unknown number of workers directly or indirectly involved in space manufactures. The number of firms manufacturing only those articles which are to be launched into space or are connected with launches is unknown.

Domestic production

Since there is no separate information as to the production of articles connected with space launches or to be launched, domestic production of such articles cannot be reported.

Apparent U.S. consumption

Since domestic production figures are unavailable, U.S. consumption (wholly by NASA) is assumed to equal domestic production plus imports.

There is no "domestic consumption" of materials imported temporarily by other countries for launch.

Data as to materials recovered by NASA from space and brought into the U.S. are unavailable.

Potential annual loss of revenue

Since the importation of such space articles is not separately reported, no estimate can be made of the potential loss of revenue which would result from the proposed provisions.

Technical comments

Section 1 of the proposed legislation attempts to change the status of the existing statistical headnote of subpart A, part 3 of schedule 8, by removing the heading which denominated it as statistical. However, the note was not enacted by Congress but was promulgated by the Committee for the Statistical Annotation of Tariff Schedules (the "484(e) Committee", so called in reference to the provision of the Tariff Act of 1930 which established it). 1/ It is therefore suggested subsections (1), (2), and (3) of section 1 of the legislation be deleted, thus making no change in the existing note, and the following subsection (1) be inserted in lieu thereof:

"(1) by inserting immediately after "Subpart A. - United States Government" the following headnote:":

"Subpart A headnote:

> 1. With respect to item 837.00, the return of materials from space by the National Aeronautics and Space Administration shall not be considered an importation, and an entry of such materials shall not be required.";

Subsection (4) would then be renumbered "(2)". These changes would give the new headnote its correct status as legal language, while maintaining the existing note's statistical character. The proposed legislation would not affect the status or tariff treatment of space materials not provided for in proposed item 837.00, and the return from space of such articles would constitute an importation for which entry is required.

Secondly, it is suggested that renumbered subsection 2 be amended to read as follows:

1/ Any necessary changes to the statistical note arising as a result of the enactment of the proposed legislation can be made by that Committee.

"(2) by adding immediately after item 836.00 the following new item:

"	Articles for the National Aeronautics and Space Administration and articles imported to be launched into space under launch services agreements with the National Aeronautics and Space Administration:		
837.00	Materials certified by it to the Commissioner of Customs to be imported to be launched into space, spare parts, or necessary and uniquely associated support equipment for use in connection with a launch into space................	Free	Free ".

This language follows the pattern of other items in subpart A while making it clear that the articles in question have not been launched into space prior to importation.

Finally, it is suggested that "December 31, 1981," be deleted from section 2 of the proposed legislation and "the date of enactment of this Act" inserted in lieu thereof. If the Committee wishes to provide for the retroactive application of the proposed changes, it is suggested that "(a)" be inserted immediately following "SEC 2." and that the following new subsection be added:

> "(b) Upon request therefor filed with the customs officer concerned on or before the ninetieth day after the date of enactment of this Act, the entry, or withdrawal from warehouse for consumption, of any article —
>
> (1) that was made before the date of enactment of this Act;
>
> (2) that was unliquidated, or the liquidation of which was not final, on such date of enactment; and
>
> (3) with respect to which there would have been no duty if the amendments made by the first section of this Act applied to such entry or withdrawal;
>
> shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated as though such entry or withdrawal had been made on the date of the enactment of this Act."

STATEMENT OF THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

The AFL-CIO believes that both the current state of the economy and the negotiating position of the United States call for extreme caution in granting any unilateral tariff cuts now. At a time when the Budget Committee is looking for every dollar of possible revenue, it is a move in the wrong direction to cut revenue derived from tariffs.

With more than 10 million Americans out of work and the prospect of economic improvement still in the unforeseen future, encouraging more imports that cost jobs and production is unwise. As the economy continues to move downward, tariff cutting costs jobs and production in two ways: firms that might otherwise survive the downturn are adversely affected by imports at a time when the domestic market is weakened. In addition, businessmen are led to believe that movement of factories to other countries and/or expansion abroad or importing will be cheaper than producing in the United States. The result is a double incentive to erode the U.S. industrial base even further and to cut the jobs and production opportunities that can develop here.

In addition, the United States has a policy of reciprocal trade. The United States has very few barriers to negotiate away in return for reducing foreign barriers to U.S. exports. Thus, unilateral tariff cuts undermine the possibility of improving U.S. access to foreign markets through reciprocal negotiations, because they reduce the ability of the United States to offer any reduction. Unilateral tariff cuts mean that the United States gives free ride in negotiations to all other countries.

These general views do not mean that every single proposal for tariff cutting falls into this category. The following comments on specific bills represent the views of the AFL-CIO.

The AFL-CIO opposes H.R. 4844 which permits the duty-free entry of materials certified by the National Aeronautics and Space Administration as intended to be launched into space or to be spare parts or necessary and uniquely associated support equipment for use in connection with such launches and for other purposes. Under current law, duty-free entry is provided for instruments and apparatus where no article of "equivalent scientific value" is domestically available. Producers for all other imports of space materials require review by various federal agencies. This bill essentially will encourage the development of new technology abroad and undermine the efficient production of space equipment in the United States.

NASA obviously is not the appropriate agency to make such determinations. In 1981, the Department of Commerce denied an application in connection with the space launches because a "domestic manufacturer was both willing and able to produce apparatus of equivalent scientific value to the foreign article." This bill is drafted so broadly that virtually any product connected with space craft could be brought in duty-free. The result will encourage the movement of U.S. production of space-related articles abroad. New technology for such articles will be developed abroad. This will cost America dearly in its efforts to achieve technological strength in the future.

Obviously, special problems such as determining that equipment which has been returned to the United States after a space flight is not to be considered an import, may require a special type of legislative approach, which can be achieved by modifying the tariff schedule headnote. But the many problems of U.S. jobs and production in technology development are too sensitive to be left to NASA decisionmakers who are not qualified to assess the impact of space craft parts on U.S. jobs and production. The damage could be widespread and irreparable in industries as varied as specialty steel, machinery, electronics and electrical equipment and whatever else is included in a space launching operation and spacecraft.

[NOTE: In addition to the comments on the above bill, see also H.R. 5386, H.R. 5554, H.R. 5707, H.R. 5758, H.R. 5891, H.R. 6268, and H.R. 6396 for AFL-CIO comments on those bills.]

H.R. 4890

To suspend the duty on sulfaguanadine, sulfapyridine, and sulfathiazole

U.S. INTERNATIONAL TRADE COMMISSION

Purpose of the legislation

H.R. 4890, if enacted, would suspend the duty on sulfaguanidine, sulfapyridine, and sulfathiazole by adding a new item to the Appendix to the Tariff Schedules of the United States (TSUS). This amendment would become effective upon the date of enactment.

Description and uses

Sulfaguanidine, sulfapyridine, and sulfathiazole are synthetic derivatives of sulfanilamide and are members of a group of chemicals classified as anti-infective sulfonamides. Although the sulfonamides may differ in certain chemical and pharmacological properties, the drugs are similar in most microbiological, therapeutic, and toxicological properties.

Although at one time sulfonamides were widely used in the treatment of infections, the development of resistance in formerly susceptible organisms has greatly limited the clinical usefulness of these drugs. Sulfonamides are now used to treat only a few types of infections. Substantial quantities have been used as growth promoters in various animal feeds. There can, therefore, be different grades of sulfonamides, such as United States Pharmacopeia (U.S.P.) grade suitable for human usage and animal feed grade suitable for use as an additive to animal feeds.

Tariff treatment

Sulfaguanidine and sulfapyridine are classifiable under TSUS item 411.28.

The column 1 rate of duty 1/ for item 411.28 is 22.5 percent ad valorem; the least developed developing countries (LDDC) rate of duty 2/ is 11.6 percent ad valorem; and the column 2 rate of duty 3/ is 7 cents per pound plus 128.5 percent ad valorem.

Sulfathiazole is classifiable under TSUS item 411.80. The column 1 rate of duty for item 411.80 is 29.4 percent ad valorem; the LDDC rate of duty is 15 percent ad valorem; and the column 2 rate of duty is 7 cents per pound plus 133 percent ad valorem. The column 1 rates of duty for both items will be reduced in annual stages until the LDDC rate is reached on January 1, 1987.

Products classifiable under TSUS items 411.28 and 411.80 are not eligible for duty-free entry under the Generalized System of Preferences (GSP). 4/

1/ Column 1 rates of duty are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, these rates would not apply to products of developing countries where such articles are eligible for preferential tariff treatment provided under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

2/ The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items which are the products of least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for an item, the rate of duty provided for in the column numbered 1 applies.

3/ Column 2 rates of duty apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

4/ The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985.

Structure of the industry

Sulfaguanidine was not produced in the United States during 1980. Sulfapyridine was produced by the following companies in 1980:

American Cyanamid Co.
Wayne, N.J. 07470

Napp Chemicals, Inc.
199 Main Street
Lodi, N.J. 07644

Although sulfathiazole was not produced domestically in 1980, sodium sulfathiazole was produced by the following company:

Salsbury Laboratories
2000 Rockford Road
Charles City, Iowa 50616

Eight other anti-infective sulfonamides that are like and, in most respects, directly competitive with sulfaguanidine, sulfapyridine, and sulfathiazole were produced in the United States in 1980 by one or more of the following companies:

American Cyanamid Co.
Wayne, N.J. 07470

Hoffman-LaRoche, Inc.
340 Kingsland Street
Nutley, N.J. 07110

Merck & Co., Inc.
126 E. Lincoln Avenue
P.O. Box 2000
Rahway, N.J. 07065

Rachelle Laboratories, Inc.
700 Henry Ford Avenue
Long Beach, Calif. 90801

Salsbury Laboratories
2000 Rockford Road
Charles City, Iowa 50616

Domestic production

Production data for the individual anti-infective sulfonamides are not available. However, domestic production data for all anti-infective sulfonamides combined are as follows:

Anti-infective sulfonamides: U.S. production, 1976-80

(Quantity in pounds; value in dollars; unit value per pound)

Year	Production		Unit value
	Quantity	Value 1/	
1976	4,015,000	22,739,000	5.66
1977	4,435,000	28,394,000	6.40
1978	4,585,000	32,194,000	7.02
1979	5,951,000	67,508,000	11.34
1980	4,841,000	68,339,000	14.12

1/ Estimated.

Source: U.S. International Trade Commission, Synthetic Organic Chemicals, United States Production and Sales, 1976-80.

U.S. imports

Import data for anti-infective sulfonamides are as follows:

Anti-infective sulfonamides: U.S. imports, 1976-80

(Quantity in pounds; value in dollars; unit value per pound)

Anti-infective sulfonamide	1976	1977	1978	1979	1980
			Quantity		
Sulfaguanidine	70,989	11,023	255,734	324,716	118,939
Sulfapyridine	0	10,472	125,288	95,000	105,820
Sulfathiazole	410,273	606,924	280,535	361,161	891,893
All other	2,526,172	1,743,145	3,079,831	3,335,179	1,907,194
Total	3,007,434	2,371,564	3,741,388	4,116,056	3,023,846
			Value		
Sulfaguanidine	390,000	60,000	2,000,000	2,600,000	1,000,000
Sulfapyridine	-	60,000	1,000,000	760,000	950,000
Sulfathiazole	1,900,000	2,400,000	1,100,000	2,500,000	4,500,000
All other	13,300,000	7,000,000	13,000,000	23,350,000	9,550,000
Total	15,590,000	9,520,000	17,100,000	29,210,000	16,000,000
			Unit Value		
Sulfaguanidine	5.50	5.50	8.00	8.00	8.40
Sulfapyridine	-	5.50	8.00	8.00	9.00
Sulfathiazole	4.70	4.00	4.00	7.00	5.00
All other	5.25	4.00	4.25	7.00	5.00
Total	5.20	4.00	4.60	7.00	5.30

Source: Quantity, U.S. International Trade Commission: Imports of Benzenoid Chemicals and Products, 1976-80; value and unit value, estimated by Commission staff.

U.S. exports

Export data for sulfaguanidine, sulfapyridine, and sulfathiazole are not available. Export data for total exports of anti-infective sulfonamides in bulk form are, however, as follows:

Anti-infective sulfonamides: U.S. Exports, 1976-80

(Quantity in pounds; value in dollars; unit value per pound)

Year	Production		Unit value
	Quantity	Value	
1976	1,819,987	21,884,804	12.02
1977	1,961,591	1/ 19,616,000	1/ 10.00
1978	1,726,706	17,680,724	10.24
1979	1,535,452	16,213,000	10.56
1980	1,474,975	23,527,096	15.95

1/ Estimated. Official statistics for Spain are believed to be in error.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Apparent U.S. consumption

Apparent consumption data are not available for sulfaguanidine, sulfapyridine, and sulfathiazole. Estimated total apparent consumption of all anti-infective sulfonamides is tabulated below for quantity only. Because of disparities between unit values of production, imports, and exports, computed values of apparent consumption have little or no meaning.

Anti-infective sulfonamides: U.S. apparent consumption, 1976-80

Year	Quantity (pounds)
1976	5,202,447
1977	4,844,973
1978	6,599,682
1979	8,531,604
1980	6,389,871

Potential annual loss of revenue

Based upon the estimated value of imports of sulfaguanidine, sulfapyridine, and sulfathiazole in 1980, the loss of revenue would be approximately $1.81 million per year. If the estimated value of imports remains constant, the loss of revenue would decline to about $900,000 by 1987 because of staged rate reductions.

Technical comments

A misspelling occurs in the title and body of this legislation; the name of one of the products appears as sulfaguanadine. It should be changed to sulfaguanidine.

We note that the legislation, as introduced, omits the word "Free" in the column for rate of duty number 1. Also, the rate of duty is not specified in the column for rate of duty number 2 and, the expiration date has been omitted in the column entitled "Effective Period".

PRENTISS DRUG & CHEMICAL CO., INC.,
New York, N.Y., June 2, 1982.

Mr. JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. SALMON: We are manufacturers and suppliers of Agricultural Chemicals, and wish to take the time to write you regarding the Selective Tariff Reduction Bill HR4890, concerning the elimination of tariffs on the chemical products Sulfaguanadine, Sulfapyridine and Sulfathiazole. We are strongly in support of this bill for the reasons that are outlined below.

We feel that the rates of duty on these products are unjustifiably high. Additionally, there is no domestic production for two of the three above mentioned products. The third is manufactured domestically by one American Company and is used only by that company as an intermediate for another product. Lastly, we feel that the elimination of these tariffs would lower manufacturing costs, lower consumer costs and, therefore, be beneficial to the overall economy.

Again, let us say that we are strongly in favor of the Selective Tariff Reduction Bill HR4890 and wish to receive your support of same.

Very truly yours,

MALCOLM MILLER, *President.*

QUALITY PLUS PRODUCTS,
Fort Dodge, Iowa, June 1, 1982.

Re statement of record, House of Representatives bill H.R. 4890.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR CHIEF COUNSEL SALMON: This Statement of Record is written in support of House of Representatives bill H.R. 4890 which proposes to eliminate the duty for a period of three years on sulfathiazole, sulfapyridine and sulfaguanidine.

The only public opponents to bill H.R. 4890 are Pharmacia and American Cyanamid. Pharmacia opposes the elimination of duty only on sulfapyridine because they plan to manufacture sulfasalazine (a human drug) in the Virgin Islands and import it into the United States duty free. Sulfapyradine is a precursor in the manufacture of sulfasalazine, currently being manufactured in the United States by Salsbury Laboratories.

American Cyanamid opposes the elimination of duty on sulfaguanidine and sulfathiazole. American Cyanamid manufactures sulfamethazine (sulfaguanidine is an intermediate precursor in the manufacture of sulfamethazine by one synthetic method) but imports significantly more than it presently produces. Salsbury Laboratories currently manufactures sodium sulfamethazine using sulfaguanidine as an interemediate.

Americn Cyanamid opposes the elimination of duty on sulfathiazole because it fears that cheaper sulfathiazole will give Diamond Shamrock a competitive edge with its CSP-250 (chlortetracycline-sulfathiazole-pencillin) over American Cyanamid's ASP-250 (aueromycin-sulfamethazine-pencillin).

The duty on foreign imports is supposed to protect United States manufacturers from foreign competition, not to arbitrarily give one company a monopolistic edge over another, especially at the expense of the American Livestock producer and ultimately the American consumer.

Quality Plus Products Co., Inc. therefore supports early passage of H.R. 4890, hopefully in time for the fall sulfonamide season.

Sincerely,

THOMAS D. SCHMOKER, *President.*

STATEMENT OF RACHELLE LABORATORIES, INC., BY JOSEPH F. KAPLAN, ESQ.

Mr. Chairman and Members of the Subcommittee, we are counsel to Rachelle Laboratories Inc., a subsidiary of International Rectifier Corporation, located in Long Beach, California. Rachelle is a pharmaceutical manufacturer devoted to the production of medicinal products for livestock.

These comments are directed to H.R. 4890, a bill to eliminate customs duties on sulfathiazole, sulfaguanadine and sulfapyridine. Rachelle is interested in the bill because it produces sulfamethazine, a product which competes directly with imported sulfathianole, at its Long Beach, California facility. Sulfamethazine is a veterinary medicinal end product which is combined with other medicinal products, usually penicillin and chloratetracycline, to produce a medicinal "pre-mix". As formulated by Rachelle, the pre-mix is known as "Chlorachel 250". Rachelle sells this product in competition with American Cyanamid Corporation and others.

Sulfamethazine in its pre-mix formulation also competes with pre-mixes containing sulfathiazole. Sulfathiazole is chemically different from sulfamethazine, but the pre-mixes in which each is used provide similar medicinal benefits and are directly competitive. Unlike sulfamethazine, sulfathiazole is not produced domestically.

Several years ago, Rachelle imported sulfamethazine for use in Chlorachel 250. Since there was domestic production of sulfamethazine, it was appraised on the American selling price basis of valuation. Without dwelling too much on past history, it is useful for this Committee to know that the quoted price for domestic sulfamethazine, and hence the American selling price on which duty was based, became so high that it made sense to Rachelle to commence its own production of sulfamethazine. Rachelle invested large su;ms of money to build a facility, the replacement value of which is over $2,500,000 and for the last several years has produced sulfamethazine for its own use and, at times, for sale to customers in competition with imported sulfamenthazine.

Rachelle's sulfamethazine business is what is primarily threathened by the passage of H.R. 4890 in its present form. As we have said, sulfathiazole competes directly with Rachelle's sulfamethazine.

To our knowledge, the only sources for sulfathiazole are located in controlled economy countries. Such non-market economy countries are known to be willing to permit the prices for export goods to be set at levels which will ensure market penetration and growth. Rachelle fears that the elimination of customs duties from sulfathiazole will enable non-market economy producers to realize a windfall of dimensions sufficient to drive domestic sulfamethazine from the marketplace. The assertion that duty suspension will result in reduced feed costs to farmers is unsupportable and indeed incredible when one contemplates the enjoyment of a monopoly position by non-market economy producers.

Rachelle employs about 20 people directly in the production of sulfamethazine. These jobs are in jeopardy. In preparing Chlorachel 250, Rachelle utilizes equal parts of sulfamethazine and chlortetracycline, and one-half part of penicillin. Lost sales of Chlorachel 250 will consequently impact on chlortetracycline production. in addition, sales of chlortetracycline as an independent product will be lost because customers tend to satisfy their needs from a single source rather than split trade. Thus, passage of H.R. 4890 threatens Rachelle's ability to produce and sell chlortetracycline profitably. The latter product is produced in a facility, recently expanded, and having a replacement value of about $50,000,000.

This facility is highly efficient and designed to satisfy Rachelle's needs. It will not be possilbe to reduce costs by laying off line workers as the same number are required whether the plant works at full or less than full capacity. The result of lost chlortetracycline sales, therefore, is increased costs and decreased profitability. Clearly, then, extension of duty free treatment to sulfathiazole must be seen to threaten Rachelle's continued existence.

Rachelle does not manufacture sulfapyridine or sulfaguanadine. It is a user of sulfaguanadine, which is an intermediate material from which sulfamethazine is made. At present, the only domestic source of sulfaguanadine known to Rachelle is American Cyanamid. Since that company competes with Rachelle for sales of sulfamethazine and sulfamethazine products, it is important for Rachelle to have available adequate sources of sulfaguanadine at competitive prices. Frankly and obviously, this advantage is enhanced if Rachelle is able to obtain sulfaguanadine free of customs duties.

CONCLUSION

Rachelle Laboratories opposes the removal of duties from sulfathiazole since it competes directly with a product, sulfamethazine, manufactured in the United States by Rachelle and at least one other producer, American Cyanamid. Low cost, duty free imports of sulfathiazole would tend to weaken or destroy the domestic sulfamenthazine industry without providing demonstrable benefits to United States consumers.

Sulfapyridine is not produced in the United States and sulfaguanadine is not offered for sale on a competitive basis.

For the reasons expressed, Rachelle respectfully requests that the Subcommittee recommend to the full Committee that sulfathiazole continue to be subjected to customs duties as presently provided in the Tariff Schedules of the United States and Annex XX of the United States Protocol of Accession to the GATT. Rachelle has no objection to the suspension of duty on sulfaguanadine and sulfapyridine.

H. REISMAN CORP.,
Orange, N.J., June 2, 1982.

JOHN J. SALMON, Esq.,
Chief Counsel, Committee on Ways and Means, Washington, D.C.

DEAR SIR: This is with reference to House Bill H.R. 4890 with regard to the reduction and/or removal of duties for certain Sulfa drugs not produced in the United States.

The passing of this legislation can only have a positive effect for the USA. It will result in a lower cost of food production.

No domestic industry will be hurt as these drug products, Sulfathiazole, Sulfaguanidine, Sulfapyridine, etc, are not produced in the United States.

The full intent of the law was to protect domestic industries, which today are nonexistent. We urge you to support and pass this Bill.

Very truly yours,

HARVEY REISMAN, *President.*

RHÔNE-POULENC INC.,
CHEMICAL DIVISION,
Monmouth Junction, N.J., June 1, 1982.

Mr. JOHN J. SALMON,
Chief Counsel, Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR CHIEF COUNSEL: As an off-shore manufacturer and domestic supplier of sulpha drugs and employer of 1300 personnel in the United States, we strongly urge that you support the passage HR 4890. The sulpha drugs included in the bill are important tools to the United States livestock producer. The removal of duty on these drugs will enable the already financially strapped livestock producers to purchase them at lower cost and include them in their production management program. There are no domestic manufacturers of the drugs.

Sincerely,

R. M. VERBURG, *President.*

VETERINARY LABORATORIES, INC.,
Lenexa, Kans., June 2, 1982.

Mr. JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C. 20515

DEAR SIR: In behalf of Veterinary Laboratories, Inc. I would like to issue the following statement which would be in the best interest to not only our company but the animal health industry as a whole.

Veterinary Laboratories Inc., with much emphasis, supports Bill HR-4890 which proposes the elimination of duty for a three-year period on Sulfathiazole, Sulfapyridine and Sulfaguanidine. To the best of my knowledge, there are currently no American firms manufacturing these three sulfa drugs and, therefore, no reason to have a duty. I am aware of a Swedish company, Pharmacia, who is against the passage of this bill because they use one of these sulfas as an intermediate in the manufacturing of another sulfa, Sulfasalazine, which evidently is being used in a human pharmaceutical. However, I firmly believe that it would be grossly unfair to maintain the duty for the selfish reasons of one or two companies at the expense of the entire animal health industry and ultimately the American consumer.

In closing, please accept our sincere appreciation for any efforts that you personally put forth toward the passage of this important bill.

Respectfully,

I. H. (RIP) SIEGEL,
Vice President.

H.R. 4913

To reduce the duty on the pesticide commonly known as Dicofol

DEPARTMENT OF STATE

We are responding to your request for the views of the Department of State on H.R. 4913, a bill to reduce the duty on dicofol.

The Department of State would have no objection to the enactment of the proposed legislation if it were amended to provide for a temporary three year reduction of the duty in lieu of a reduction of an indefinite duration. Such action would, in effect, extend the tariff treatment applicable to certain other insecticides not produced in the United States to include dicofol.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 4913, a bill: "To reduce the duty on the pesticide commonly known as Dicofol."

If enacted, H.R. 4913 would move Dicofol from Tariff Schedules of the United States (TSUS) item number 408.28, containing "competitive" chemicals, to TSUS item 408.24, containing "noncompetitive" chemicals. This amendment would result in the permanent reduction of all duties applicable to Dicofol. The applicable column-1, most-favored-nation rate of duty would be reduced from 18.4 percent ad valorem (TSUS item 408.28) to 11.2 percent ad valorem (TSUS item 408.24). The LDDC column rate of duty would be reduced from 12.5 percent ad valorem to 6.9 percent ad valorem and the column-2 (statutory) rate would be reduced from 7 cents per pound plus 64.5 percent ad valorem to 7 cents per pound plus 41 percent ad valorem. Dicofol is a GSP-eligible product under TSUS item 408.28 and would continue to be so under TSUS item 408.24.

The column-1, MFN rates of duty for both TSUS item 408.28 and 408.24 are being reduced in stages under the Multilateral Trade Negotiations (MTN) agreements. In 1987, the final column-1 rate of duty applicable to Dicofol would be 6.9 percent ad valorem if H.R. 4913 were enacted; it would be 12.5 percent ad valorem if Dicofol were to retain its present TSUS classification.

The Department has no objection to lowering the rate of duty on Dicofol, but suggests that this lower rate be made for a temporary, three-year period of time. The Department further suggests that section 2 be revised.

We suggest that H.R. 4913 be amended to provide for a temporary, three-year duty reduction to confirm that reduction of the duty on Dicofol would have no economic effect on the competitiveness of other pesticides produced in the United States. The Department of Commerce is unaware of any domestic production of Dicofol. Other pesticides are produced in the United States but generally are more restricted both in terms of the types of pests which they are designed to curb and the geographic areas for effective usage.

Section 2(a) provides that the lower rates of duty would become effective on the date of enactment of the bill. The Department recommends that section 2(a) be amended to provide for an effective date at least 15 days after the date of enactment. This would permit the United States Customs Service time to notify its field offices and the public of the details of the new law.

Section 2(b) provides for retroactive application of the lower rate of duty. The Department recommends that section 2(b) be deleted from the bill since its inclusion would establish a costly precedent and would provide windfall benefits to some importers.

The revenue loss if this bill were enacted is estimated to be $411,840 the first year.

Enactment of H.R. 4913 would have no impact on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that they have no objection to the submission of our letter to the Congress from the standpoint of the Administration's program.

Purpose of the legislation

H.R. 4913, if enacted, would amend item 408.24 of the Tariff Schedules of the United States (TSUS) by adding "1,1-Bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol)," to the list of insecticides entitled to a reduced rate of duty under that provision because a comparable product is not produced in the United States. The Chemical Appendix to such schedules would also be amended by striking out "115-32-2". The bill would also provide that, on request to the proper customs officer filed within 90 days of its enactment, entries or withdrawals from warehouse of Dicofol which occurred before its date of enactment and were not finally liquidated by that date would be assessed the appropriate rate of duty under item 408.24, if the total duty under that item is less than the amount payable under item 408.28.

Background

As a result of this proposal, Dicofol would be properly classified under item 408.24 rather than 408.28, where it is presently classified; imports of Dicofol would then be assessed a rate of duty which is lower than that of item 408.28. These two items were created by Title II of the Trade Agreements Act of 1979 1/ as part of the U.S. implementation of the Customs Valuation Agreement concluded in the Tokyo round of Multilateral Trade Negotiations (MTN). This agreement required the United States to eliminate the "American selling price" (ASP) method of appraisement which had applied to certain benzenoid

---

1/ Section 223(d), 93 Stat. 205, July 26, 1979.

chemicals as well as certain other products. [1] Under this method of appraisement, imported benzenoid products which were considered to be "competitive" with similar domestic products (because they accomplish results substantially equal to those accomplished by the domestic product when used in substantially the same manner) would be appraised on the basis of the U.S. wholesale price of the similar domestic product, without regard to the actual cost of the imported product. If a similar domestic product was not being produced in the United States, the imported product would have been appraised on the basis of the "United States value" which was based on the wholesale price of the imported product. This method generally resulted in a much lower assessed value than the "American selling price" method.

Before final agreement was reached on the Customs Valuation Agreement in Geneva the Special Trade Representative requested, on February 24, 1978, that the Commission conduct a study in which it would determine for products subject to ASP —

> "rates of duty which, in the Commission's judgment, . . . would have provided an amount of duty on imports of such products during a recent representative period substantially equivalent to the amount collected as a result . . . [of the ASP method]."

The Commission submitted a report to the Special Trade Representative in June 1978 [2] which recommended tariff provisions and rates of duty based on trade in 1976 as a "recent representative period." The Commission's recommendations formed the basis for the provisions contained in section 223(d) of the Trade Agreements Act of 1979.

With regard to the two TSUS items in question, item 408.24 identifies by name those insecticides for which a domestically produced competitive product did not exist in 1976 (that is, the imported product was "noncompetitive") and 408.28 is a basket provision where insecticides which were considered to be "competitive" in 1976 are classified. Since the duty rates for these items were calculated on the basis of the ad valorem equivalents of "noncompetitive" and "competitive" imports, respectively, based on 1976 data, the duty rate for item 408.24 is substantially lower than that for item 408.28.

---

[1] The ASP method applied to certain nonrubber footwear, wool knit gloves and canned clams as well as certain benzenoid chemicals.

[2] "The Probable Economic Effect of U.S. Adoption of New Rules of Customs Valuation." Report to the Special Trade Representative on Investigation No. 332-98.

In 1976, Dicofol was classified by the Customs Service as a "competitive" product and was subject to the ASP basis of appraisement because it was at that time produced in the United States. It is therefore classifiable under the higher duty rate of item 408.28.

Dicofol has not been produced in the United States for the past few years. The domestic production of any chemical may frequently be halted or commenced as market demands change. While it is the intent of this bill to apply to Dicofol a duty rate now granted other insecticides which were not produced in the United States in 1976, if domestic production of Dicofol should resume after this bill becomes effective any Dicofol then imported would still be entitled to the lower rate of duty under item 408.24.

Description and uses

Dicofol is a synthetically-produced chlorinated insecticide (more specifically, it is an acaricide). It is currently being used on many fruit, vegetable, ornamental, and field crops for the control of various species of mites. There are other domestically-produced acaricides which are also used to control mites on certain crops; however, Dicofol has the largest number of registered crop uses compared with these other acaricides.

Tariff treatment [1]

Dicofol is presently classified in the residual "basket" category for insecticides, not artificially mixed, which are provided for in the Chemical Appendix to the Tariff Schedules--TSUS item 408.28. Articles entered under item 408.28 are presently dutiable at a column 1 rate of 18.4 percent ad valorem, an LDDC rate of 12.5 percent ad valorem, and a column 2 rate of 7 cents per pound plus 64.5 percent ad valorem.

This bill would change the classification of Dicofol to TSUS item 408.24, which provides for specifically enumerated insecticides, not artificially mixed. This item is presently dutiable at a column 1 rate of 11.2 percent ad valorem, an LDDC rate of 6.9 percent ad valorem, and a column 2 rate of 7 cents per pound plus 41 percent ad valorem.

As a result of the Tokyo round of multilateral trade negotiations, the column 1 rates of duty for these TSUS items will be reduced in annual stages through January 1, 1987, as shown in the following tabulation:

---

[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

The rates of duty in rate of duty column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are applicable to products of the least developed developing countries designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 applies.

The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

TSUS item	Rates of duty effective with respect to articles entered on and after--					
	January 1, 1982	January 1, 1983	January 1, 1984	January 1, 1985	January 1, 1986	January 1, 1987
408.24	11.2%	10.3%	9.5%	8.6%	7.6%	6.9%
408.28	18.4%	17.3%	16.1%	14.9%	13.7%	12.5%

Dicofol as an article classified in item 408.28 is currently eligible for the duty-free entry under the Generalized System of Preferences 1/ (GSP) and would continue to be eligible if reclassified under item 408.24, as GSP treatment has already been extended to articles under each item.

Structure of the domestic industry

At the present time, Dicofol is not produced in the United States. In 1979, Rohm and Haas, the only U.S. producer, stopped production of Dicofol at their plant in Philadelphia, Pennsylvania, because of increasing environmental costs. During 1976-78, U.S. production data for Dicofol were reported to the Commission by Rohm and Haas; however, these data cannot be published because to do so would reveal business confidential information.

U.S. imports

In 1980, imports of Dicofol, by quantity, 2/ were 2.6 million pounds. 3/ Nearly all of the imports in 1980 came from Italy and were shipped to Rohm and Haas. Industry sources also indicated that small amounts of Dicofol

---

1/ The GSP under Title V of the Trade Act of 1974 provides duty-free treatment of specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985.

2/ Value of imports is not available.

3/ Source: U.S. International Trade Commission, Imports of Benzenoid Chemicals and Products, 1980.

were imported from Israel under the GSP provisions. The Commission staff did not find any imports of this product from column 2 sources in 1980.

Imports of Dicofol for the past 5 years are shown in the following tabulation:

Year	Quantity (pounds)
1976	11,023
1977	1/
1978	41,200
1979	1,334,842
1980	2,597,136

U.S. exports

Exact export data for Dicofol are not available as Dicofol is classified in a residual basket Schedule B item number. An industry source, however, has estimated the following export quantities of Dicofol (technical and formulated products) during 1976-80. 2/

Year	Quantity (pounds)
1976	2,000,000
1977	2,700,000
1978	1,000,000
1979	56,000
1980	132,000

The major exporter of Dicofol during this period was Rohm and Haas.

Apparent U.S. consumption

Data for domestic consumption of Dicofol are not available; however, an industry source indicated that domestic consumption was approximately the same as domestic production during 1976-78 minus exports. In 1979 and

---

1/ No imports of Dicofol were identified by the Commission staff.
2/ Value of exports is not available.

1980, domestic consumption was essentially the same as the quantity of imported Dicofol.

Potential annual loss of revenue

Based on Commission data and information provided by the major domestic importer of Dicofol, the following are estimated revenue losses for a 3-year period from 1982 through 1984.

Year	Estimated revenue loss 1/
1982	$244,000
1983	400,000
1984	432,000

1/ Based on an average estimated value for Dicofol of $2.26 per pound in 1982, $2.38 per pound in 1983, and $2.63 per pound in 1984. Imports of Dicofol are estimated at 1.5 million pounds in 1982, 2.4 million pounds in 1983, 2.5 million pounds in 1984.

DEPARTMENT OF AGRICULTURE

This is in response to your request for the views and comments of the U.S. Department of Agriculture (USDA) on H.R. 4913, a bill "To reduce the duty on the pesticide commonly known as Dicofol."

USDA supports the proposed bill with certain changes, as it would lower the rate of duty on Dicofol. However, we defer to the Department of Commerce with respect to section 2(a) and section 2(b) of the bill which do not concern USDA. USDA also recommends a 3-year suspension of the duty, rather than a permanent reduction.

H.R. 4913 would amend item 408.24 of the Tariff Schedules of the United States by inserting "1, 1-Bis (4-Chlorophenyl)-2, 2, 2-trichloroethanol (Dicofol);" and would amend the Chemical Appendix by striking out "115-32-2".

Imports of this commodity are largely supplemental to, not competitive with U.S. production. In fact, Dicofol is not produced in the United States although other pesticides which serve some of the same uses are domestically produced.

Enactment of the bill would not involve any additional costs to the government beyond the loss of tariff revenue. We defer to the International Trade Commission for an assessment of those costs.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

ROHM & HAAS CO.,
Philadelphia, Pa., June 2, 1982

Re H.R. 4913—duty reduction on a pesticide commonly known as Dicofol.

JOHN J. SALMON, Esq.,
Chief Counsel, Committee on Ways and Means,
U.S. House of Representatives, Washington, D.C.

DEAR MR. SALMON: We respond to the request of the Committee to comment on the legislation identified above which was the subject of hearing and testimony on May 17, (Administration) and May 26 (the general public).

We chose not to appear at the public hearing in deference to the valuable time of the Committee, but submit these comments in substitute thereof.

We understand that the Administration supported the bill with only two reservations. We address both of them here.

I. THE ADMINISTRATION'S CONCERN ON RETROACTIVITY

The Administration was concerned that proposed sec. 2(b) would allow for a retroactive reduction. The following background facts are relevant. The Rohm and Haas Company, an importer of Dicofol, filed protests against the payment of increased duties, beginning in approximately September, 1981. By operation of law (19 U.S.C. § 15'4), the finality of the applicable rate was suspended.

Less than ten protests have been filed to date. To the extent that the company seeks any recovery of duties already deposited, it does so only on those entries which are under protest and it does not seek a reopening of past entries. The point is a technical one but we think important. We would agree with the Committee without question that any attempt to reopen entries already liquidated and final would cause a serious disruption in the operations of government.

Secondly, it is important to understand exactly what those who seek this legislation ask and what they do not ask. Had the importer presented information during the Multilateral Trade Agreements that Dicofol was not then subject to an American selling price appraisement Dicofol would never have been placed in the Chemical Appendix to the Tariff Schedules. The legislation before the Congress today seeks only a removal of that product from the Chemical Appendix, a circumstance which probably would have come to pass in any event had we voiced our views in 1979 when the Trade Agreements legislation was in process. Hence, we do not seek a retroactive treatment. More properly, we seek only a return to a status quo ante. To that extent, we must respectfully disagree with the position of the Department of Commerce that a reclassification of entries under protest is tantamount to a "windfall." Such a description fails to take into consideration the background facts.

Notwithstanding the explanation above, if the Congress thinks that our proposed language may set an undesirable precedent, the corporation accedes to the concerns of the Congress and Department of Commerce and will withdraw its request for the language as stated in section 2(b) of the proposed legislation.

II. THE ADMINISTRATION PROPOSAL TO LIMIT THE LIFE OF THE LEGISLATION TO THREE YEARS

The Administration has also proposed that the life of the legislation reclassifying Dicofol should be for three years only. Here, too, we stand firm in our position that the original proposal is more meritorious, but it will accede to the larger interests of the Department of Commerce and of the Congress.

We note, however, the following facts.

First. To the best of our knowledge, legislation which exists for a limited life has as its goal a temporary suspension of all duties and not a reclassification. Historically, temporary suspension legislation is introduced to remedy a generally serious problem of limited duration, such as a decline in availability of strategic materials. To this extent our legislation is different from the norm.

Second. We are very certain that at the end of the life of this legislation no association, firm, union, group of workers or other industry representatives will assert injury. Under such circumstances, the only consequence of a proposal to limit the life of this legislation is to create work for the Committee and the Congress three years hence. In all good faith, we do not consider that we would be damaged by limiting the life of the legislation, but in all candor, we must acknowledge that we think that the limiting life provision creates more work for the importers, the Congress, and the interested agencies of the United States.

Moreover, if, in fact, any entity believes that it has been injured by a reduction in the rates of duty, there are already remedies under 19 U.S.C. § 2251 (the Escape Clause). Hence, the Commerce Department's interest in protecting domestic industry has already been considered and provided for by the Congress in the Escape Clause legislation.

Thank you for the opportunity to comment on the proposed legislation.

Respectfuly submitted.

A. J. Bartosic, Esq.,
Senior Counsel.

H.R. 5401

To suspend until January 1, 1985, the duty on natural graphite

[No reports or comments were received on this bill.]

H.R. 5058

To suspend the duty on 1,6-Hexanediol until July 1, 1985

DEPARTMENT OF STATE

We are responding to your request for the views of the Department of State on H.R. 5058, a bill providing duty free entry for hexanediol.

The Department of State has an objection to the enactment of the proposed legislation. We understand the product of interest is not produced in the United States. In such circumstances the obligation to pay duty imposes an unnecessary cost burden on domestic consumers and we believe it should be removed.

While we have no objection to the temporary suspension of the duty, we defer to the Department of the Treasury regarding the appropriateness of the provisions of the second section of the bill dealing with the liquidation of entries.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

DEPARTMENT OF THE TREASURY

This is in reply to your request for the view of the Department of the Treasury concerning H.R. 5058, a bill "To suspend the duty on 1,6-Hexanediol until July 1, 1985."

Section 1 of the bill would suspend the duty on 1,6-Hexanediol until July 1, 1985. Section 2 of the bill provides that the duty suspension would be applicable to entries and warehouse withdrawals made on or after the date of enactment of the bill.

While this Department does not object to the suspension of duty on the above described articles, we recommend a minor technical correction of the bill. On page 1, line 8 and on page 2, line 4, the comma should be omitted after the word "consumption" and a comma inserted after the word "warehouse".

Section 2(B) of the Act would require that the duties on all qualifying 1,6-Hexanediol levied between April 30, 1981 and enactment of the bill be reliquidated retroactively. although we have no present estimate on the number of entries of hexanediol that would need to be reopened, the Department opposes the retroactive application of the bill. Such a provision establishes a precedent which would be disruptive and costly to the U.S. Customs Service. It is therefore recommended that section 2(b) be deleted from the bill and that section 2(a) be redesignated as section 2.

Also, this Department recommends that section 2 of H.R. 5058, as well as all proposed legislation amending the Tariff Schedules of the United States, provide for an effective date which is at least 15 days after the date of enactment. This would permit the U.S. Customs Service to notify its field offices and the public of the details of the new law. Similarly, the many customs brokers who use computers to prepare entry documentation require time to update their data bases with the new information. When laws are enacted changing the duty status of imported merchandise, the U.S. Customs Service invariably receives complaints from the public regarding the lack of timely notification.

Subject to amendment of the bill as recommended above, the Department of the Treasury does not object to the enactment of H.R. 5058.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 5058, a bill:

"To suspend the duty on 1, 6-Hexanediol until July 1, 1985."

If enacted, H.R. 5058 would amend the Tariff Schedules of the United States (TSUS) to provide temporary duty-free entry of 1, 6-Hexanediol from countries receiving column-1, most-favored-nation (MFN) tariff treatment. Duty-free treatment would be allowed from date of enactment through June 30, 1985. The column-2 (statutory) rate of duty (54.5 percent *ad valorem)* would not be affected. This product currently enters the United States in the basket category TSUS item 428.47 and is subject to a column-1 rate of duty of 12.3 percent *ad valorem*. In addition, the item would retain its designation as a GSP item allowing duty-free entry from beneficiary developing countries.

The Department would have no objection to enactment of H.R. 5058, but we suggest certain changes be made to section 2.

The Department of Commerce is unaware of any domestic production of 1, 6-Hexanediol. The last domestic producer ceased production in 1981 when internal operations no longer required 1, 6-Hexanediol as an input. We do not think that imports compete directly with domestic production of readily substitutable chemical intermediates.

The Department recommends several changes in section 2. Section 2(a) provides that the lower rate of duty would become effective on the date of enactment of the bill. The Department recommends that section 2(a) be amended to provide for an effective date at least 15 days after the date of enactment. This would permit the United States Customs Service time to notify its field offices and the public of the details of the new law.

Section 2(b) provides for retroactive application of the lower rate of duty. The Department recommends that section 2(b) be deleted from the bill, since its inclusion would establish a costly precedent and would provide windfall benefits to some importers.

No precise data on imports of 1,6-Hexanediol are available. U.S. industry estimates that total annual imports are valued at approximately $5.5 million. The revenue loss would be approximately $553,500 for the first year.

Enactment of H.R. 5058 would have no impact on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that they have no objection to the submission of our letter to the Congress from the standpoint of the Administration's program.

Purpose of the legislation

H.R. 5058, if enacted, would temporarily suspend the column 1 rate of duty 1/ for 1,6-hexanediol, classified in item 428.47 of the Tariff Schedules of the United States (TSUS). The legislation would amend subpart B of part 1 of the Appendix to the TSUS to add new item 907.50, with free entry of articles from column 1 countries until July 1, 1985, commencing on the date of enactment. The column 2 rate of duty 2/ would remain unchanged. Entries of articles after April 30, 1981 and prior to the enactment of the suspension could be liquidated or reliquidated under the new provision if request therefor is made within 90 days after enactment.

Description and uses

The chemical 1,6-hexanediol is produced synthetically from a benzenoid-derived chemical (i.e., ethyl adipate). It is used primarily as an intermediate in the production of high-molecular-weight polymers (i.e., nylon, polyesters, and polyurethanes), as a plasticizer, and as a solvent. The domestic consumer uses this chemical to manufacture polyesters which are then used to make certain polyurethanes. 1,6-Hexanediol imparts to these polymers certain superior properties (i.e., high strength, heat and water

---

1/ The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

2/ The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

resistance, and so forth) required in the finished product. According to the consumer and to the former manufacturer of 1,6-hexanediol, any other polyhydric alcohol, such as 1,4-butanediol, would not give the polymers these required properties. These polymers are used in the production of items such as wheels for skateboards, fabric coatings for synthetic leathers, and high-performance metal coatings.

This chemical, which is used in the production of more advanced chemical products, is not produced in the United States at the present time. The domestic consumer, presently forced to rely on imports, is planning during the period of the proposed duty suspension to build a manufacturing plant to produce 1,6-hexanediol and must develop a profitable market to justify this expenditure.

Tariff treatment

As a result of the Trade Agreements Act of 1979, [1] 1,6-hexanediol is presently classified in TSUS item 407.07. This item includes other products, by whatever name known, not provided for in the Chemical Appendix or in subpart A or C of part 1, schedule 4 of the TSUS, including acrylic organic chemical products, which are obtained, derived, or manufactured in whole or in part from any of the cyclic products having a benzenoid, quinoid, or modified benzenoid structure provided for in subpart A or foregoing items of subpart B of the TSUS. Item 407.07 carries a column 1 (MFN) rate of 13.5 percent ad valorem. The column 2 rate is 7 cents per pound plus 53.5 percent ad valorem. No LDDC rate is provided for this item. 1/ The column 1 rate of duty for this item number is not scheduled for annual staged reductions within the framework of the Tokyo round of the MTN.

---

[1] Section 223(d), 93 Stat. 205, 19 U.S.C. 1202. As a result of the Customs Valuation Agreement of the Multilateral Trade Negotiations (MTN), the "American selling price" (ASP) method of appraising certain benzenoid chemicals was eliminated. The Commission's recommendations, contained in "The Probable Economic Effect of U.S. Adoption of New Rules of Customs Valuation" (Report to the Special Trade Representative on Investigation No. 332-98) formed the basis for the provisions contained in section 223(d). Under the ASP method of appraisement, imported benzenoid products considered to be "competitive" with similar domestic products (accomplishing results substantially equal to those of the domestic product used in substantially the same manner) were appraised on the basis of the U.S. wholesale price of the similar domestic product. Other imported products were appraised based on the "United States value", relying on the wholesale price of the imported product, with such products generally assessed a much lower value than those appraised under ASP. 1,6-Hexanediol is considered a benzenoid chemical since it is derived from such a chemical.

This chemical is not eligible for duty-free entry under the Generalized System of Preferences (GSP). 2/

Structure of the industry

At the present time, 1,6-hexanediol is not produced in the United States. In April 1981, the only domestic producer of 1,6-hexanediol, Celanese Corp., stopped production when they closed their nylon plant which used 1,6-hexanediol as an intermediate chemical. During 1976-80, U.S. production data for this chemical were reported to the Commission by Celanese Corp.; however, these data could not be made available to the public because to do so would reveal confidential business information.

1/ The rates of duty in rate of duty column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are applicable to products of the least developed developing countries designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 applies.

2/ The GSP under Title V of the Trade Act of 1974 provides duty-free treatment of specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985.

U.S. imports

During 1976-80, the Commission staff did not identify any imports of 1,6-hexanediol from either column 1 or column 2 sources. For 1981, imports of 1,6-hexanediol will probably amount to 2.5 to 3.0 million pounds, from West Germany. The major importer is Badische Co., Williamsburg, Virginia.

U.S. exports

Exact export data for 1,6-hexanediol are not available as this chemical is classified in a residual (basket) Schedule B item number. Exports of this chemical were probably very small, if any, during 1976-80 since the major world consumers (Japan and West Germany) have sufficient domestic capacity to satisfy their needs.

Apparent U.S. consumption

Data for domestic consumption of 1,6-hexanediol are not available; however, an industry source indicated that domestic consumption was approximately the same as domestic production during 1976-80.

Potential annual loss of revenue

Based on Commission data and information provided by the major domestic importer of 1,6-hexanediol, the following are estimated revenue losses for a 3-year period from 1982 through 1984.

Year	Estimated revenue loss 1/
1982	$380,700
1983	417,150
1984	152,550

1/ Based on an average estimated value for 1,6-hexanediol of $0.94 per pound in 1982, $1.03 per pound in 1983, and $1.13 per pound in 1984. Imports of 1,6-hexanediol are estimated at 3.0 million pounds in 1982 and 1983; 1.0 million pounds in 1984. The calculations were based on a duty rate of 13.5 percent ad valorem, the column 1 rate for TSUS item 407.07 (the current classification of 1,6-hexanediol).

Technical comments

Since 1,6-hexanediol is considered to be derived from a benzenoid chemical, it is not being classified in part 2 of schedule 4 of the TSUS. It is currently classified in item 407.07, as indicated above. Thus, the parenthetical language "items 428.47, part 2D, schedule 4" should be deleted and "item 407.07, part 1B, schedule 4" inserted in lieu thereof in the proposed item.

DEPARTMENT OF AGRICULTURE

This is in response to your request for the views and comments of the U.S. Department of Agriculture (USDA) on H.R. 5058, a bill "To suspend the duty on 1,6-Hexanediol until July 1, 1985."

USDA supports the proposed bill, except for the provision for retroactivity to April 30, 1981.

H.R. 5058 would amend subpart B of part 1 of the Appendix to the Tariff Schedule of the United States (TSUS) by inserting a new item 907.50, providing for the entry of 1,6-Hexanediol free of duty until July 1, 1985.

Because there are currently no U.S. producers of the commodity, the duty reduction will not adversely affect U.S. producers and may, by lowering costs, benefit U.S. consumers.

Enactment of the bill would not involve any additional cost to the Government beyond the loss of tariff revenue. We defer to the International Trade Commission for an assessment of those costs.

The Office of Management and Budget advises that there is no objection to presentation of this report from the standpoint of the Administration's program.

DEPARTMENT OF LABOR

This is in response to your request of December 4, 1981, for the views of the Department of Labor concerning H.R. 5058, a bill "[t]o suspend the duty on 1,6-Hexanediol until July 1, 1985." We apologize for the delay in responding to your request.

The Department of Labor does not oppose a temporary suspension of the duty on 1,6-Hexanediol but opposes enactment of section 2(b) of the bill which would give retroactive effect to the tariff suspension.

1,6-Hexanediol is a specialty chemical used in the production of polymers (polyurethane) for plastics and coatings. Section 1 of H.R. 5058 would suspend the column one tariff on Hexanediol imported on or before June 30, 1985. According to information submitted to the Department of Labor, there is presently no production of Hexanediol in the United States but a major chemical company that now imports the substance plans to complete domestic production facilities in 1985. Under these circumstances, it is the view of the Department of Labor that a temporary duty suspension would be appropriate because it is unlikely that such action would adversely affect domestic employment and because it would not discourage construction of domestic production facilities.

Section 2(b) of H.R. 5058 provides that the duty suspension will have retroactive effect. The Department of Labor is opposed to retroactive tariff modifications in the absence of compelling circumstances which demonstrate an overall benefit to the United States economy rather than windfall profits to discrete interests.

The Office of Management and Budget advises that there is no objection to the submission of your report from the standpoint of the Administration's program.

H.R. 5080

To extend duty-free treatment to button blanks of casein

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 5080, a bill: "To extend duty-free treatment to button blanks of casein."

If enacted, H.R. 5080 would extend duty-free treatment to button blanks of casein by deleting item 745.40 from the Tariff Schedules of the United States (TSUS) and inserting two new items, 745.41, "button blanks of casein," with a column 1, most-favored-nation (MFN), and least developed developing country (LDDC) tariff rate of "free" and a column 2 tariff rate of 45 percent; and item 745.42, "other," with the same tariff rates currently in effect for item 745.40.

Button blanks of casein currently enter the United States under item 745.40 of the TSUS. As of January 1, 1982, the column 1 tariff is 22.1 percent ad valorem. This tariff is scheduled to be reduced in stages to 11.4 percent by January 1, 1987. The LDDC rate is 11.4 percent ad valorem, and the column 2 rate is 45 percent ad valorem. TSUS item 745.40 is not eligible for duty-free treatment under the U.S. Generalized System of Preferences.

The Department supports enactment of H.R. 5080.

There is no domestic production of casein button blanks. U.S. producers of casein buttons must import casein button blanks which they manufacture into finished buttons by drilling and polishing operations. Casein buttons enter the United States at a column 1 rate of duty of 6.9 percent ad valorem, a much lower rate of duty than the blanks.

There are no separate data available on imports of casein button blanks. The USITC reports that Customs' import specialist estimate imports of such blanks at about $38,000 in 1980, or 15 percent of the total value of imports under TSUS item 745.40. Thus, if H.R. 5080 is enacted, there would be a loss of customs revenue of approximately $8,400 in 1982. The loss would diminish each year until the staged duty reductions are completed in 1987, when the loss would be $4,000 annually, assuming that import levels remain constant at about $38,000 per year.

Enactment of H.R. 5080, would have no impact on the revenues to, or administrative costs of, this Department.

We have been advised by the Office of Management and Budget that they have no objection to the submission of our letter to the Congress from the standpoint of the Administration's program.

Purpose of the legislation

H.R. 5080, if enacted, would provide duty-free treatment for imports of casein button blanks. 1/ There has been no domestic production of casein button blanks since 1979. Thus, U.S. producers of casein buttons must import casein button blanks which they manufacture into finished buttons by drilling and polishing operations. U.S. manufacturers allege that they are at a competitive disadvantage with importers of finished casein buttons since the current Most-Favored-Nation (MFN) rate of duty on these casein buttons is 6.9 percent ad valorem, while that on casein button blanks is 24.2 percent. 2/

Description and uses

Casein is a substance made from a milk by-product which is sometimes used in producing buttons. The casein is dried into a powder after being mixed with a catalyst and stabilizers. Casein button blank production is a process which usually begins with the blending of casein powder with coloring. The substance is then processed into a semi-liquid state that has the consistency of soft dough. The soft dough-like material is put through an extruding machine where long rods are formed. These rods are sliced into discs, and the discs are placed in formaldehyde for approximately twenty days for curing. The discs are then classified by thickness since some shrinkage does take place during curing. Another, but less frequently used method of

---

1/ This legislation is substantially similar to S. 1392, 97th Cong., introduced June 18, 1981.

2/ 127 Cong. Rec. S 6445 (June 18, 1981) (Remarks of Sen. Mitchell).

producing casein button blanks involves returning the powdered casein to a semi-liquid state and placing the substance in button molds.

For tariff purposes, the term "button blanks" (including those of casein) is limited to raw or crude blanks suitable for manufacture into buttons. [1]

Casein buttons are used for outerwear such as on work gloves, uniforms, and ladies' and men's raincoats and overcoats. They are considered high fashion items which are produced to imitate buttons of horn. Casein buttons are not thermoset in the manufacturing process and tend to warp at high temperatures.

Tariff treatment [2]

Imports of button blanks (including those of casein) are provided for under item 745.40 of the Tariff Schedules of the United States (TSUS)--"Button blanks and molds, and parts of buttons". [3] As shown in table 1, the current column 1 rate of duty is 24.2 percent ad valorem, the column 2 rate is 45 percent, and the LDDC rate is 11.4 percent, the same as the final negotiated column 1 rate. Imports under item 745.40 are not eligible articles for purposes of the Generalized System of Preferences (GSP). 1/

---

[1] See headnote 2(b), subpart A, part 7, schedule 7, TSUS.

[2] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

The rates of duty in rate of duty column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are applicable to products of the least developed developing countries designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 applies.

The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[3] Button molds are discs which are covered with fabric by the consumer; button parts generally consist of metal pieces which are attached to the button and allow it to be sewn to the garment.

As a result of the Multilateral Trade Negotiations (Tokyo Round), the column 1 rate of duty for imports under item 745.40 will be reduced in annual stages to 11.4 percent ad valorem, effective January 1, 1987 (table 2). 2/

Structure of the domestic industry

There is no domestic output of casein button blanks. There are, however, three firms--Button Cutters, Inc., and Cobel, Inc., situated in New York City, and Ball and Socket Manufacturing Co., in Maine--that manufacture (i.e., shape, drill holes and polish or dull) imported casein button blanks into finished casein buttons. Aggregated, these three firms account for approximately 95 percent of the total annual domestic production of casein buttons from imported button blanks. Other domestic button producers import the finished casein buttons, which are estimated at $1.1 million in 1980, to satisfy their requirements for such buttons.

Domestic production

Reportedly, there has been no domestic production of casein button blanks since 1979, when the Rochester Button Company, Rochester, New York,

---

1/ Imports of casein buttons (item 745.25), which are duty free under the GSP, are currently dutiable at a column 1 rate of 6.9 percent ad valorem, a column 2 rate of 45 percent, and an LDDC rate of 4.9 percent ad valorem.

The GSP under title V of the Trade Act of 1974 provides duty-free treatment of specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985, unless modified by the President or terminated.

2/ The column 1 rate applicable to imports of casein buttons (item 745.25) will be reduced in annual stages to 4.9 percent ad valorem, effective January 1, 1987. However, under the residual authority granted the President under section 124 of the Trade Act of 1974, the final rate can be further reduced to 3.9 percent ad valorem.

ceased such production due to high production costs. According to trade sources, the total sales of casein buttons by the three U.S. companies that manufacture casein buttons from imported button blanks is estimated to have amounted to less than $300,000 annually during 1979-80. Industry sources further indicated that imported finished casein buttons sell for about 30-35 percent less than casein buttons of comparable quality which are domestically produced from imported casein button blanks.

U.S. imports

Separate data are not available on imports of casein button blanks. However, it is estimated by Customs' import specialists that imports of such blanks amounted to about $38,000 in 1980, or 15 percent of the total value of imports under TSUS item 745.40.

Casein button blanks are imported from Holland, Germany, and Italy. Nearly all are consumed by Button Cutters, Inc., Cobel, Inc., and Ball and Socket Mfg. Co. In addition, twelve companies in the metropolitan New York area account for approximately 95 percent of all U.S. imports of finished casein buttons under item 745.25.

U.S. exports

There is no domestic production of casein button blanks; consequently, there are no exports of such merchandise.

Apparent consumption

Since there was no domestic production of casein button blanks in 1979-80, imports of such blanks supplied all of domestic consumption (estimated at approximately $38,000 in 1980).

Potential annual loss (or gain) of revenues

If this legislation is enacted there would be a loss of customs revenue of approximately $8,400 in 1982. The loss would diminish each year until the staged duty reductions are completed in 1987, when the loss would be $4,000 annually, assuming that import levels remain constant at about $38,000 per year.

Technical comments

In the material at the top of page 2, "745.41" should be aligned with the tariff line which reads "... Button blanks, of casein" rather than with the superior heading (i.e., "Button blanks and molds, ..." etc.).

Table 1.--Button blanks and molds and parts of buttons: Current and final negotiated U.S. rates of duty, by TSUS item

TSUS item No.	Description	Present col. 1 rate of duty 1/	Final negotiated col. 1 rate of duty (LDDC rate) 2/	Column 2 rate of duty	GSP eligibility
745.40	Button blanks and molds, and parts of buttons	24.2% ad val.	11.4% ad val.	45% ad val.	No

---

1/ Effective Jan. 1, 1981.

2/ Rate negotiated under the Multilateral Trade Negotiations in Geneva (Tokyo Round), to be achieved through eight annual staged reductions (1980-87). This rate is currently applicable to products from countries designated as "least developed developing countries" (LDDC).

Table 2.--Button blanks and molds and parts of buttons: Staged reductions of column 1 rates of duty under the Multilateral Trade Negotiations

TSUS item No.	Description	Pre-MTN rate 1/	Rate of duty effective with respect to articles entered on and after Jan. 1--							
			1980	1981	1982	1983	1984	1985	1986	1987
745.40	Button blanks and molds, and parts of buttons	28.5% ad val.	26.4%	24.2%	22.1%	20%	17.8%	15.7%	13.5%	11.4%

1/ Rate of duty in effect from Jan. 1, 1972 through Dec. 31, 1979.

H.R. 5372

To suspend until the close of June 30, 1984, the column 1 rate of duty on unmounted gold leaf

[No reports or comments were received on this bill.]

H.R. 5386

To provide for the temporary duty-free treatment of imported hatter's fur

U.S. International Trade Commission

Purpose of the legislation

H.R. 5386, if enacted, would provide temporary duty-free treatment for a period of 3 years for hatters' fur provided for under Tariff Schedules of the United States (TSUS) item 186.20. The duty-free treatment would be effective during the period January 1, 1983-December 31, 1985 with respect to articles entered or withdrawn from warehouse for consumption during the period.

According to the sponsor, the bill is intended to correct an anomaly in the tariff rates of duty whereby imported finished products (fur felt hats) and semifinished products (hat bodies, known in the trade as hoods) are dutiable at a lower rate than the raw material (hatters' fur) used to make the finished and semifinished product.

Description and uses

Hatters' fur (described in the TSUS as "fur, not on the skin, prepared for hatters' use, ...") is the principal raw material used in the production of fur felt hats. Hatters' fur is cut from the skins of certain animals (chiefly rabbits and hares) after the skins have undergone carroting, a chemical process to improve the felting properties of the fur. Most of the hatters' fur produced in the United States is cut from duty-free imported raw skins which are carroted in the United States before the removal of the fur for use as hatters' fur. Almost all U.S. produced hatters' fur is made from imported fur skins; it is reported to be of the same quality as imported hatters' fur.

Tariff treatment

Imports of hatters' fur under TSUS item 186.20 are dutiable at a column 1 rate 1/ of 15 percent ad valorem and a column 2 rate 2/ of 35 percent ad valorem. Item 186.20 was not the subject of duty reductions under the Tokyo round of multilateral trade negotiations of the General Agreement on Tariff and Trade (GATT). Thus, there is no separate LDDC rate of duty. 3/ Imports under item 186.20 are eligible for preferential tariff treatment under the Generalized System of Preferences. 4/

Imports of the raw material from which almost all hatters' fur is made (raw or not dressed rabbit furskins) are classifiable under TSUS item 124.10. Such imports are free of duty from both column 1 and column 2 countries.

The bulk of the imports of the finished products (fur felt hats) and semifinished products (hoods) which are made from hatters' fur are classifiable under TSUS item 703.35 (headwear, for men or boys, of fur not on the

---

1/ Column 1 rates of duty are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, these rates would not apply to products of developing countries where such articles are eligible for preferential tariff treatment provided under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

2/ Column 2 rates of duty apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

3/ The preferential rates of duty in the "LDDC" reflect the full U.S. MTN concession rates implemented without staging for particular items which are the products of least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for an item, the rate of duty provided for in the column numbered 1 applies.

4/ The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985.

skin, valued over $30 per dozen 1/) and are dutiable at the column 1 rate of $2.13 per dozen plus 3.1 percent ad valorem, LDDC rate of $1.10 per dozen plus 1.6 percent ad valorem, and column 2 rate of $16 per dozen plus 25 percent ad valorem. The effective rate of duty on all imports classifiable under TSUS item 703.35 was less than 5 percent ad valorem in both 1980 and 1981. TSUS item 703.35 is subject to staged rates of duty reductions as negotiated under the Tokyo round. The staged reductions are shown in the following tabulation:

1/ Industry sources indicate that almost all imports of hoods and hats are valued at over $30 per dozen and that imports of fur felt hats for women and girls are negligible.

Staged Rates

TSUS item No.	Prior rate	Rates of duty 1/ effective with respect to articles entered on and after Jan. 1--							
		1980	1981	1982	1983	1984	1985	1986	1987
703.35	$2.75/doz. 4% ad val.	$2.54/doz. 3.7%	$2.33/doz. 3.4%	$2.13/doz. 3.1%	$1.92/doz. 2.8%	$1.71/doz. 2.5%	$1.51/doz. 2.2%	$2.30/doz. 1.9%	$1.10/doz. 2.6%

1/ The symbol "%" indicates "percent ad valorem."

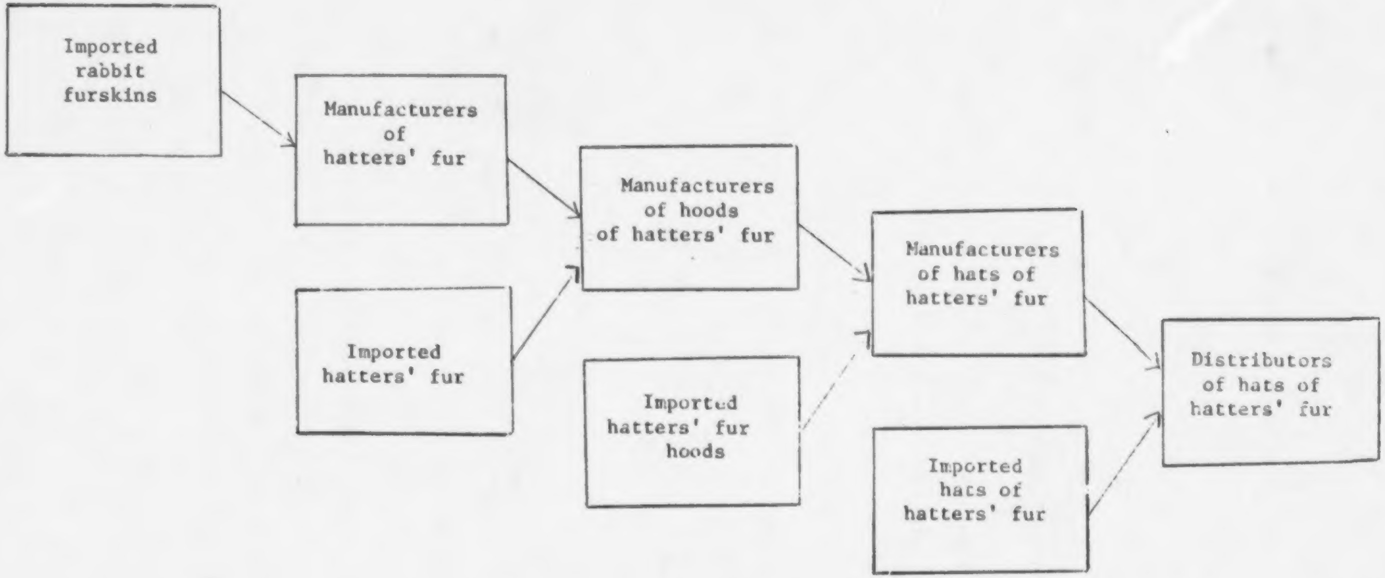
Structure of the domestic industry

The chart on the following page shows the various segments and sources of supply of the U.S. fur felt hat industry.

The hatters' fur and fur felt hat industries are characterized by high degrees of concentration and integration. Five firms are believed to account for nearly all of the domestically produced hoods and fur felt hats. These firms are: Resistol Hat Company (a division of Karacorp, which is a subsidiary of Levi Strauss Co.) of Garland, Texas (Resistol is estimated to account for 40 percent of total U.S. fur felt had production); Stetson Co. (a subsidiary of Stevens Hat Manufacturing Company) of St. Joseph, Missouri; Langenberg Hat Company of Marthasville, Missouri; Miller Bros. Hat Company of Corsicana, Texas; and Stratton Hats, Inc. of Bellwood, Illinois. These firms, however, have subsidiaries and plants located throughout the United States, with much of the hatters' fur reported to be produced around New York City and Newark, New Jersey. Excluding Miller Bros., which imports hatters' fur for production of hoods and hats, these firms are believed to account for the great bulk of U.S. production of hatters' fur. (A few independent hatters' fur manufacturers are reported to be in business and other firms are reported to produce hatters' fur sporadically.) Although the firms occasionally sell hatters' fur or hat bodies to each other, most of the production of hatters' fur and hoods is captive production for producing their own fur felt hats.

A similar concentration exists with regard to imports. Of the same 5 firms, 4 apparently account for 90 percent of U.S. imports of rabbit furskins used to manufacture hatters' fur. The five firms together account for almost all of U.S. imports of hatters' fur and for a significant part of U.S. imports of hat bodies and fur felt hats.

Schematic Diagram of the Segments and Sources of Supply
of the U.S. Fur Felt Hat Industry


Imported rabbit furskins
Manufacturers of hatters' fur
Imported hatters' fur
Manufacturers of hoods of hatters' fur
Imported hatters' fur hoods
Manufacturers of hats of hatters' fur
Imported hats of hatters' fur
Distributors of hats of hatters' fur

Domestic production

Detailed statistics concerning U.S. production of hatters' fur are not available. Industry sources estimate that U.S. production amounts to less than one million pounds annually. Production, which had begun declining after World War II, dropped steeply in the 1960's. In recent years, however, the industry has revived somewhat with the increased demand for Western-style hats. Industry sources indicate that the domestic industry has considerable unused and underutilized capacity.

U.S. imports, exports, and apparent consumption

Data concerning U.S. imports of hatters' fur are shown in table 1. Such imports have increased regularly from 10,000 pounds, valued at $36,000, in 1977 to 195,000 pounds, valued at $2.6 million, in 1981. France was the principal source for U.S. imports in 1981, supplying 88,000 pounds (45 percent of the total quantity), and the Federal Republic of Germany was second with 80,000 pounds (41 percent). Czechoslovakia, the only major supplier subject to the column 2 rate of duty, accounted for 7,000 pounds (4 percent) of the total quantity of imports of hatters' fur in 1981.

Hat manufacturing companies and their subsidiaries account for almost all of U.S. imports of hatters' fur. U.S. exports of hatters' fur are believed to be negligible. Thus, based on import statistics and industry estimates of production, apparent U.S. consumption of hatters' fur amounted to about one million pounds annually in recent years.

U.S. imports of raw or not dressed rabbit furskins, from which hatters' fur is made, increased regularly from 3.2 million pounds in 1977 to 5.7 million pounds in 1981 (table 2). France has been the principal supplier.

U.S. imports of headwear of the type classifiable under TSUS item 703.35 which includes fur felt hats of the type made from hatters' fur, rose irregularly from 7,000 dozen in 1977 to 68,000 dozen in 1981 (table 3).

Potential loss of revenue

Based on imports in 1981, it is estimated that the annual loss of duty revenue resulting from enactment of H.R. 5386 would approximate $400,000.

Technical comments

The item number (903.55) suggested for the proposed new provision is currently in use for "bamboo shoots in airtight containers." In order to preserve the current numbering arrangement in the Appendix, it is suggested that "903.55" be deleted at each appearance in the draft legislation and "903.85" be inserted in lieu thereof.

In order to begin affording the benefit of the suspension immediately, "January 1, 1983" might be deleted and "the date of enactment of this Act" inserted in lieu thereof.

Further, in order to conform with the other provisions in the Appendix, it is suggested that the article description for the proposed new item be amended by deleting the period at the end of the description and adding the following in lieu thereof: ", part 15D, schedule 1 ....".

Table 1.--Hatters' fur: 1/ U.S. imports for consumption, by principal sources, 1977-81

Source	1977	1978	1979	1980	1981
	Quantity (1,000 pounds)				
ance	0	0	26	78	88
ieral Republic of Germany	0	0	24	26	80
ain	0	2	16	9	12
lgium	2/	1	23	19	8
echoslovakia	0	0	0	0	7
azil	4	25	16	4	1
l other	7	1	7	2	0
Total	10	30	111	138	195
	Value (1,000 dollars)				
rance	-	-	232	897	1,188
ederal Republic of Germany	-	-	215	254	1,140
pain	-	14	141	96	129
elgium	2	16	254	244	89
zechoslovakia	-	-	-	-	68
razil	28	237	191	76	13
ll other	6	1	88	28	-
Total	36	268	1,121	1,594	2,627
	Unit value (dollars per pound)				
France	-	-	9.05	11.54	13.49
Federal Republic of Germany	-	-	9.04	9.81	14.32
Spain	-	6.33	8.93	10.19	10.65
Belgium	9.85	12.93	11.06	12.84	11.44
Czechoslovakia	-	-	-	-	10.23
Brazil	$7.00	9.46	11.81	18.00	12.21
All other	.98	.66	13.28	12.74	-
Average	3.55	9.07	10.10	11.52	13.45

1/ TSUS item No. 186.20.
2/ Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Note.--Figures may not add to totals shown because of rounding; unit values calculated from unrounded figures.

Table 2.—Rabbit furskins: [1] U.S. imports for consumption, by principal sources, 1977-81

Source	1977	1978	1979	1980	1981
	Quantity (1,000 pounds)				
France	2,469	2,867	4,281	3,829	4,531
Hungary	0	0	0	32	707
Argentina	22	32	14	41	159
All other	660	0	680	650	317
Total	3,151	3,580	4,929	4,552	5,714
	Value (1,000 dollars)				
France	4,121	6,314	9,111	6,834	8,693
Hungary	-	-	-	65	1,876
Argentina	43	45	41	167	686
All other	1,052	1,293	1,059	1,472	1,057
Total	5,216	7,652	10,211	8,538	12,312
	Unit value (dollars per pound)				
France	$1.67	$2.20	$2.13	$1.79	$1.92
Hungary	-	-	-	2.02	2.65
Argentina	1.92	1.42	2.89	4.04	4.32
All other	1.60	1.90	1.67	2.26	3.33
Average	1.66	2.14	2.07	1.88	2.15

[1] TSUSA item 124.1040.

Note.--Figures may not add to totals shown because of rounding. Unit values based on unrounded numbers.

Table 3.--Headwear of fur not on the skin for men and boys: 1/ U.S. imports for consumption, by principal sources, 1977-81

Source	1977	1978	1979	1980	1981
	Quantity (1,000 dozen)				
Canada	0	3	2	5	7
Brazil	0	1	1	2	14
Federal Republic of Germany	0	2	2	5	13
Republic of South Africa	0	0	2/	3	7
Portugal	0	7	5	1	8
United Kingdom	0	1	1	1	4
Yugoslavia	0	0	0	0	6
Italy	0	3	3	3	2
Australia	0	0	0	3	2
Poland	4	4	3	3	4
All other	3	2	2	2	1
Total	7	23	19	28	68
	Value (1,000 dollars)				
Canada	-	507	527	1,914	2,835
Brazil	-	78	96	326	2,721
Federal Republic of Germany	-	279	265	712	1,828
Republic of South Africa	-	-	77	543	1,241
Portugal	-	409	331	75	876
United Kingdom	-	145	226	304	682
Yugoslavia	-	-	-	-	468
Italy	-	561	420	524	445
Australia	-	-	-	349	326
Poland	131	150	128	151	225
All other	165	254	248	204	232
Total	296	2,385	2,318	5,102	11,884

1/ TSUS item 703.35.

2/ Less than 500 dozen

Source: Compiled from official statistics of the U.S. Department of Commerce.

Note.--Figures may not add to totals shown because of rounding.

STATEMENT OF HON. STEPHEN J. SOLARZ A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, I want to thank you and the Members of this Subcommittee for giving me this opportunity to provide the evidence which led me to conclude that the Congress should delete the reference to "Communist China" from Section II of the Trade Agreements Act of 1951 because economic facts and foreign policy considerations make it in our own American interests to permit China to export to the United States ermine, fox, kolinsky, marten, mink and weasel furs and skins, dressed or undressed.

Last year the House Foreign Affairs' Subcommittee on Asian and Pacific Affairs, which I chair, held extensive hearings, in part, on normalizing economic relations with China,[1] and received the following statement from the Department of Commerce:

"The U.S. furskin industry is made up of three separate and distinct segments; the furskin producers, the furskin dressers, and the garment makers.

"Dressers and garment makers have long opposed quotas on mink and have favored the elimination of the embargo on furskins. They argue that the embargo eliminates an additional source of competitively-priced furskins for U.S. processors and garment makers. Moreover, permitting fur apparel regardless of origin to be imported into the United States, while restricting Chinese furskin imports results in the dressing and manufacturing being done in other countries rather than in U.S. plants, and harms U.S. processors and garment makers. According to the American Fur Merchants' Association, the fur embargo has been a factor in shifting the world's fur market from New York to London because it has made it impossible for New York to have a full range of the world's furs to sell.

On the other hand, mink breeders have sought the imposition of import restrictions on mink furskins and have opposed a repeal of the embargo. Some industry sources have speculated that, considering the present levels of U.S. mink production and trade, most producers would not strongly oppose a repeal of the embargo at this time. Nevertheless, given their traditional opposition, I would anticipate that domestic mink breeders would oppose any attempt to lift the embargo."

In addition, the President of the National Council for United States-China Trade, an organization of many of America's most prestigious firms who trade with China, told the Subcommittee:

"5. THE TRADE AGREEMENTS EXTENSION ACT OF 1951 (THE SEVEN DEADLY SKINS)

"Thirty years ago, on June 16, 1951, during the Korean War, Congress passed this act with Section II prohibiting the importation from China (and the Soviet Union) of the 'seven deadly skins'—ermine, fox, kolinsky, marten, mink, muskrat, weasel furs and skins, dressed or undressed. The amendment was introduced by Senator McCarthy.

"China is the only trading partner of the U.S. with most-favored-nation tariff status to which such a unilateral trade restriction applies.

"This anachronistic law, still on the books, referring to 'Communist China' should be repealed as soon as possible. Clearly it acts as a direct impediment to trade in furs, a growing category of imports both from the world as a whole and from the PRC."

That statement supplemented the National Council's testimony of April 3, 1974 to the Senate:

"The 'Seven Deadly Skins'

"We support repeal of the current prohibition of the entry into the United States of ermine, fox, holinsky, marten, mink, muskrate and weasel furskins, raw or not dressed, which are the product of the People's Republic of China. This would require repeal of headnote 4 to Schedule 1, Part 5, Subpart B of the Tariff Schedules of the United States. This particular trade discrimination first became a part of American foreign economic policy in 1951, when Chinese and American troops were fighting in Korea. Its elimination will remove an unwarranted irritant in our relations with China, and yet domestic producers will have the benefit of the protective devices of the pending bill against injurious foreign competition."

The Subcommittee's own independent inquiries to both business and labor in the United States fur industry provided reports that Chinese furs already enter the U.S. after being dressed in Britain or Canada. Therefore amending the law will mainly help the American economy by increasing the likelihood that business and jobs now done elsewhere on Chinese furs will be done in the United States.

---

[1] Printed under the title, "New Era in East Asia".

It thus seems universally agreed that amending the law will be all to the good, with the possible exception of mink. But even in mink, where the U.S industry is doing well in quality exports, it seems that as long as we insist on proper labeling, the economic gains should far outweigh any small losses.

The foreign policy reasons for changing the law to end this discrimination against China are compelling in and of themselves. The 1951 law only prohibits imports from the Soviet Union and China. But American foreign policy to China, a bipartisan policy of Presidents Nixon, Ford, Carter and Reagan, is to establish friendly relations with China which can help us meet the challenge of Soviet military expansionism in Afghanistan and elsewhere. To carry out that policy we want to make sure that we do not treat a friendly China as we might the expansionist Soviet Union. Hence this 1951 law from Korean War days reflects an era of active hostility which it is our goal to do all principled things honorably possible to see never again returns.

Before Mr. Reagan became President, the United States began to treat China as a friendly nation in our law for the purpose of trade by granting China Most Favored Nation status and for purposes of investment by making China eligible for OPIC and U.S. Export-Import Bank loans. But more has to be done to fully normalize our economic relations.

After the Subcommittee on Asian and Pacific Affairs' hearing last year, its members unanimously signed a letter to the President stating: ". . . we believe we should repeal those restrictions on the economic and commercial relationship between our two countries, that were enacted at a time when we were distant and hostile rather than close and friendly, and which no longer reflect the emerging realities of the relationship between us. We understand that the Administration is now reviewing these restrictions and we look forward to receiving your recommendations in this regard. For our own part, we are prepared to move expeditiously toward the legislative elimination of those prohibitions which unnecessarily restrict the further development of a more constructive and enduring relationship between us."

The Reagan Administration has now declared China a friendly nation for the purposes of lethal arms sales. The Administration has asked and the House Foreign Affairs Committee has just agreed that China should be considered a friendly country for the purposes of P.L. 480 agricultural sales and that the prohibition of economic assistance to China should be ended by permitting such aid whenever it is considered in the interests of our country's security to provide it.

To continue this unique fur discrimination against China would be to introduce an unnecessary irritant and a unique anomaly into U.S.-China relations which are now legally defined as friendly relations.

Mr. Chairman, since this amendment to end a discriminatory prohibition against China promises to bring economic benefits and foreigh policy gains to our country, I urge the International Trade Subcommittee to act to end this discriminatory prohibition.

Thank you.

COMMENTS OF THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

The AFL-CIO opposes H.R. 5386, which provides temporary duty-free treatment of imported hatters' fur. This bill will deny the fur industry and fur workers the opportunity to process and work on U.S. imports of raw furs. It will injure those U.S. plants and employees involved in the processing of fur for hats. Thus, the passage of H.R. 5386 will add to U.S. imports at the cost of U.S. jobs.

RESISTOL® HATS,
Garland, Tex., May 24, 1982.

Congressman DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
Cannon House Office Building, Washington, D.C.

DEAR CONGRESSMAN ROSTENKOWSKI: We were recently made aware of Bill H.R. 5386 introduced by Mr. Derwinski for the purpose of providing temporary duty free treatment of imported hatters' fur. We would like to express our opposition to this bill. During the past twelve months Resistol® Hats has invested over $3 million in a new hatters' fur production facility in Newark, New Jersey. This facility is by far the most modern in the world and has the capacity to supply at least 75 percent of all the hatters' fur used in the United States. As the largest user of hatters' fur in the country, we will use the facility to produce our own needs but will have excess capacity to produce hatters' fur for other companies. In addition to our facility, three other companies operate hatters' fur plants in the United States and an increase in the amount of imported hatters' fur could detrimentally affect these facilities.

At the present time, it appears for certain that 1982 will be a very difficult year for American headwear manufacturers. We have already experienced substantial layoffs and any legislation which would have the purpose of transferring American jobs overseas would certainly not be in the best interest of our industry. Therefore, we urge you to vote against H.R. 5386.

Sincerely,

WILLIAM F. DALY,
Executive Vice-President.

H.R. 5490

Relating to the duty on certain knives (commonly known as snap blade tools) having movable blades

THE U.S. TRADE REPRESENTATIVE

This is in response to your request for my views on the proposed bill H.R. 5490 relating to duty on knives known as snap blades. The bill would set up a new TSUS category (649.95) and tariff rate (7.7% ad valorem) for this item. This category (TSUS 649.83) called for a duty of 7 cents and 11.5 percent ad valorem.

I cannot recommend this bill as it is currently written. The proposed change in classification amounts to a unilateral tariff concession that stands to benefit Japan which is an anticipated supplier of these knives. The existing tariff of an estimated ad valorem equivalent of 16 percent on the item valued at approximately $1.50 will drop to 7.7 percent. Granting such a cut in duties without receiving a compensating increase in access to Japan's markets at this time is not acceptable and is inconsistent with our resolution to secure equivalent competitive opportunities in trading with Japan.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the present of these comments.

STATEMENT OF HON. BARNEY FRANK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. Chairman, on behalf of American Brush Company of Brockton, Massachusetts, I want to thank you for your efforts to bring H.R. 5490 before the Subcommittee today. This legislation is a simple tariff reduction bill that would reduce what is now a needlessly high tariff for snap blade tools—cutting blades of about three-fourth inches in length which are hand held and are used by artisans, craftsmen, and construction workers.

The effect of my bill, H.R. 5490, would be to classify these snap blade "knives" as "hand tools" rather than "knives" for purposes of tariff assessment, thereby reducing the tariff from 11.5 percent ad valorum to 7.7 percent ad valorum.

With only a single exception, there is no United States industry engaged in the manufacture of snap blade hand tools. Thus, tariff policies directed at protecting the domestic industry from low priced imports do not apply.

Ardell Industries, Inc. of Union, New Jersey does import snap blade handles from Canada and then assembles snap blade knives in the United States for subsequent sale. Ardell's low distributor price is 58 cents per knife compared to American Brush Company's low distributor price of 96 cents. With the enactment of this legislation, the low distributor price of snap blade knives imported by American Brush Company would be reduced to 76 cents compared to Ardell's 58 cents. Clearly, the snap blade tools which American Brush Company imports from Japan are in a different price range from those which are assembled domestically and, therefore, would not significantly affect the sale of Ardell's product.

The fact of the matter is that under either the current tariff assessment for snap blade tools or under the new tariff rate proposed by this legislation, Ardell's competitive snap blade tools would still be priced significantly below the prices of the imported articles. Since this is a case where importd items are much higher priced than similar items produced in the United States, there is no need to cushion or protect the domestic industry with steep "knife" tariffs assessed on snap blade hand tools.

I understand that some competitive snap blade hand tools presently enter the United States from Taiwan and Hong Kong duty free under the General System of Preferences (GSP). Since there has been no suggestion that the domestic industy is or has been import sensitive, and therefore meriting withdrawal of GSP benefits, the only effect of GSP benefits in this case appears to be to hurt the efforts of my constituent and the American Brush Company to compete fairly in the marketplace.

In light of the absence of any established need to cushion a domestic industry and in light of the current GSP benefits granted to other importers of snap blade knives, I have concluded that the net effect of maintaining the current tariff on snap blade knives is to add an unnecessary inflationary burden to the U.S. consumers of snap blade tools.

I recommend that the Subcommittee favorably report H.R. 5490 to the full Committee and on to the floor for House consideration as soon as possible.

Thank you.

H.R. 5498

To apply duty-free treatment to p-Hydroxybenzoic acid

U.S. INTERNATIONAL TRADE COMMISSION

Purpose of the legislation

H.R. 5498, if enacted, would amend subpart B of part 1 of schedule 4 of the Tariff Schedules of the United States (TSUS) by striking out the provision for p-hydroxybenzoic acid in item 404.44 and by adding a new provision (item 404.45) with permanent duty-free treatment for this product when imported from column 1 countries. 1/ The column 2 rate of duty 2/ would remain unchanged.

Description and uses

p-Hydroxybenzoic acid is a nontoxic chemical synthetically produced from petroleum. It is used primarily to produce a number of different esters (e.g., methyl, ethyl, propyl, and butyl) known as "parabens". The "parabens" are used as antimicrobial agents for cosmetics, food, and pharmaceuticals. They are nontoxic and approved by the Food and Drug Administration.

Other (minor) uses for p-hydroxybenzoic acid are as a monomer in the synthesis of plastics, fibers, and synthetic adhesives; and as an intermediate in the production of other organic chemicals (e.g., drugs).

1/ The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries since they are granted preferential tariff treatment under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

2/ The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

Tariff treatment

Since enactment of the Trade Agreements Act of 1979, p-hydroxybenzoic acid has been classified in TSUS item 404.44 and is dutiable at a column 1 rate of 11.3 percent ad valorem, an LDDC rate 1/ of 7 percent ad valorem, and a column 2 rate of 7 cents per pound plus 48.5 percent ad valorem.

The column 1 rate of duty for this TSUS item will be reduced in annual stages through January 1, 1987, as shown in the following tabulation:

TSUS item	Rates of duty effective with respect to articles entered on and after—					
	January 1, 1982	January 1, 1983	January 1, 1984	January 1, 1985	January 1, 1986	January 1, 1987
404.44	11.3%	10.4%	9.6%	8.7%	7.9%	7.0%

Imports of this chemical are not eligible for duty-free entry under the Generalized System of Preferences (GSP). 2/

Structure of the domestic industry

At the present time, p-hydroxybenzoic acid is not commercially produced in the United States. The major domestic producers, including Tenneco Chemicals, stopped production of this chemical several years ago reportedly because of increasing production costs and declining profits.

1/ The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items which are the products of least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided for in column numbered 1 applies.

2/ The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985.

Some industry sources have stated that future domestic production of this chemical is unlikely, because the cost to build and operate a plant profitably cannot be justified by current and contemplated domestic demand. Such a plant would have to produce large amounts of this chemical to operate efficiently, and these sources believe it to be unlikely that sufficient export markets could be established to consume the quantity of acid remaining after satisfaction of domestic market requirements, because of perceived competition from foreign producers.

Despite these statements from some industry sources, one domestic chemical firm recently started a pilot plant to produce small quantities of this chemical. This firm hopes to sell this chemical domestically sometime in the future.

U.S. imports

In 1981, U.S. imports of p-hydroxybenzoic acid, by quantity 1/ amounted to 2.3 million pounds. The sources of these imports in 1981 were West Germany, Japan, and Taiwan. The Commission staff did not find any imports from column 2 sources.

U.S. imports of p-hydroxybenzoic acid for the past 5 years 2/ were as follows:

Year	Quantity (Pounds)
1977	1,046,303
1978	1,354,504
1979	1,886,253
1980	1,753,253
1981	2,271,798

1/ Value of imports is not available

2/ Source: U.S. International Trade Commission, Imports of Benzenoid Chemicals and Products, annual reports.

The names of principal importers are not available; however, some of the major distributors and their locations 1/ are as follows:

Distributor	Location
Jonas Chemical Corp.	Caledonia, NY
Mobay Chemical Corp.	Pittsburgh, PA
Tenneco Chemicals, Inc.	Piscataway, NJ
Ueno Fine Chemicals	New York, NY
Universal Preservachem, Inc.	Brooklyn, NY

U.S. exports

Export data for p-hydroxybenzoic acid are not available since this chemical is classified in a residual "basket" in Schedule B. Exports of this chemical are believed to be negligible based on the absence of domestic production.

Apparent U.S. consumption

Data for domestic consumption of p-hydroxybenzoic acid for the past 5 years are not available; however, it is estimated to be essentially the same as the quantity of imported p-hydroxybenzoic acid, since there was no domestic production during this period.

Potential annual loss of revenue

Based on current demand and uses, most industry sources do not believe imports will increase more than 5 percent per year in the next few years. Growth in imports will be lower than historical rates due to a stabilization of demand by major users and to greater substitution of similar products. Based on this estimate, the potential annual loss of revenue would be approximately $400,000.

1/ Commission sources and Chemical Marketing Reporter, 1980-81 OPD Chemical Buyers Directory, p. 516.

Technical comments

We suggest that line 5 on page 1 of the bill be amended by striking out the first semicolon after the open quote mark. We believe that the proposed new article description for item 404.44 would be less susceptible to misinterpretation if a semi-colon were retained following "Gentisic acid" to make clear that the phrase "and its salts" refers only to "Hydroxycinnamic acid" and not to "Gentisic acid".

If the Committee desires to retain the President's authority, under section 125 of the Trade Act of 1974, to withdraw, suspend, or modify the application of trade agreement obligations of benefit to a foreign country or instrumentality, with respect to TSUS item 404.44, the following additional language is suggested.

> (b) For purposes of the Trade Act of 1974, the amendments made by this section (not including the rates of duty in column numbered 2 of the Tariff Schedules of the United States) shall be considered to be trade agreement obligations entered into and proclaimed under the Trade Act of 1974 of benefit to foreign countries or instrumentalities. 1/

This proposed language would make clear that establishment of a separate tariff classification and a lower rate of duty (i.e., Free) by legislation is not intended to supercede the President's authority under section 125 of the Trade Act with respect to p-hydroxybenzoic acid. Thus, the President could terminate, suspend, or modify this amendment to the TSUS, pursuant to section 125, if a country or instrumentality benefiting from the reduction below the presently-agreed upon staged rate terminates, suspends, or withdraws any trade agreement obligation of benefit to the United States without providing adequate compensation.

1/ See Pub. L. No. 96-609, sec. 117(d), effective December 28, 1980 for an example of a similar provision.

STATEMENT OF HON. RICHARD T. SCHULZE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. Chairman, I thank the Subcommittee for this opportunity to discuss my bill, H.R. 5498, a proposal to apply duty-free treatment to para-Hydroxybenzoic acid. I believe that passage of the bill will have beneficial effects on the American chemical industry, making it more competitive on a world-wide basis.

Para-hydroxybenzoic acid (called para-acid, for short) is the raw component used in the manufacture of parabens, a substance used as a preservative in the cosmetics industry.

No U.S. company manufactures para-acid and, due to the high costs associated with initial para-acid manufacturing and the size of the market necessary to sustain such production, no U.S. company will enter into production in the forseeable future. Presently, U.S. companies using para-acid import approximately 1.8 million pounds annually; in order for a company to economically undertake production in the U.S. the market would have to approach 10 million pounds annually.

The chief producers of para-acid are companies in Japan and West Germany. In addition to its para-acid production, the Japanese company produces and exports for sale in the U.S., the end-product, parabens. Companies from several other countries recently entered the parabens market.

Thus the continued imposition of the 22¢ per pound tariff on the U.S. companies importing para-acid only serves to add to their burdens of competing in an already saturated market. This bill does not seek nor will it result in erecting trade barriers against any of our international trading partners. It will not remove protection that is needed by any American chemical manufacturer. Rather, H.R. 5498 will eliminate an artificial advantage created by the tariff laws, but benefiting foreign parabens producers.

Mr. Chairman, I thank the Subcommittee for the hearing today. I urge my Colleagues to give their full support to H.R. 5498.

H.R. 5499

To continue until the close of June 30, 1986, the existing suspension of duties on Bis (4-aminobenzoate)-1,3 propanediol (trimethylene glycol di-p-aminobenzoate)

U.S. INTERNATIONAL TRADE COMMISSION

Purpose of the legislation

H.R. 5499, if enacted, would amend subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (TSUS) to provide for the continued suspension of the column 1 rate of duty [1] on bis(4-aminobenzoate)-1,3-propanediol [2] until the close of June 30, 1986. The column 2 rate of duty [3] would remain unchanged.

Description and uses

Bis(4-aminobenzoate)-1,3-propanediol is a chemical whose uses have been developed by the Polaroid Corp., Cambridge, Mass. Polaroid has tested this chemical and found it suitable for use as a curative agent for cast elastomers (e.g., polyurethanes).

This chemical is a potential competitor for a product that is currently the most widely used curing agent in the urethane industry—4,4'-methylenebis-(2-chloroaniline) (MOCA)—which is not produced in the United States. Several years ago, MOCA was investigated by the U.S. Occupational Safety and Health Administration (OSHA) because it is a suspected carcinogen. As a result of its investigation, OSHA imposed strict exposure limits for this chemical which were subsequently overturned by a federal appellate court. Since then, OSHA has not issued any new exposure limits; however two states, Michigan and California, have imposed their own strict exposure limits for this chemical. If other states impose similar exposure standards in the future, these actions could adversely affect the demand for MOCA as well as increase the demand for Polaroid's chemical (as a replacement) despite its higher cost.

Tariff treatment

This chemical is classifiable under TSUS item 405.07 and dutiable at a column 1 (MFN) rate of 1.7 cents per pound plus 15.6 percent ad valorem. The column 2 rate is 7 cents per pound plus 50 percent ad valorem. No LDDC rate of duty [4] has been provided. The column 1 rate of duty for this item is not scheduled for annual stages reductions within the framework of the Tokyo round of the Multilateral Trade Negotiations.

Since 1981. this chemical has been entered free of duty from all column 1 sources under item 907.05 which provides for a temporary suspension of the column 1 rate of duty until June 30, 1983.

Imports of bis(4-aminobenzoate)-1,3-propanediol are not eligible for duty-free entry under the Generalized System of Preference (GSP) [5]

Structure of the domestic industry

At the present time, bis(4-aminobenzoate)-1,3-propanediol is not produced in the United States, nor is there any indication of any large-scale domestic production of this chemical in the past 5 years. Polaroid has produced some small experimental quantities in the past but does not have the capacity at this time to produce large amounts of this chemical. Polaroid has also stated that the only U.S. producer of an intermediate chemical raw material, p-nitrobenzoic acid, does not have the capacity to meet the long-term raw-material requirements for production of their product.

---

[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries granted preferential tariff treatment under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[2] The article description for this product, in item 907.05, is "Bis(4-aminobenzoate)-1,3-propanediol (trimethylene glycol di-p-aminobenzoate)".

[3] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[4] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items which are the products of least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided for in column numbered 1 applies.

[5] The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985.

U.S. imports

There are no official statistics available for bis(4-aminobenzoate)-1,3-propanediol. Polaroid has stated that there were no large quantities imported into the United States prior to 1981, and a search of our records supports this statement. In 1981, Polaroid imported less than 50,000 pounds, because of unexpected supply problems originating with the foreign producer, which is located in Sweden. Polaroid expects to import approximately 80,000 pounds of this chemical in 1982.

U.S. exports

In the past 5 years, there were no exports of this chemical from the United States.

Apparent U.S. consumption

Since there is no domestic production of this chemical at present, apparent domestic consumption is approximately the same as the quantity of imports.

Potential annual loss of revenue

Because this product has not been previously imported in any large quantity, it is impossible to predict precisely the potential loss of revenue. In this case, factors such as consumer acceptance, higher costs, potential growth of higher-priced cast urethane products, and availability from the foreign producer could drastically affect any estimate. However, Polaroid's forecast of imports in the next few years ranges from 125,000 pounds in 1983 to approximately 150,000 pounds for the first 6 months of 1986. If this volume is realized, the potential loss of revenue for the three-year period would average approximately $24,000 per year.

Technical comments

The article description for Appendix item 907.05 should be amended to reflect a more precise identification of the tariff classification provision applicable to this product. The phrase "however provided for in items 402.36 through 406.63" should be replaced by "provided for in item 405.07".

STATEMENT OF DR. THEODORE JULA, SENIOR RESEARCH GROUP LEADER, THE POLAROID CORP.

Mr. Chairman, Polaroid Corporation is grateful for this opportunity to submit its views in support of H.R. 5499. As originally introduced, this bill would extend for three additional years the current suspension of import duties on trimethylene glycol di-p-aminobenzoate (TMAB) until June 30, 1986. In the meantime, Polaroid has decided for reasons outlined in this statement, that only one additional year will be necessary and, therefore, requests the bill be amended to continue the suspension only until June 30, 1984.

Although Polaroid is primarily known as a manufacturer of innovative photographic products, many of the materials that are used to manufacture its cameras and film are constantly being improved and undergoing change. As a by-product of this continuing process, products have been developed which permit diversification into fields other than photography.

One of these materials is the subject of Section 107 of Public Law 96-609 (94 stat. 3555)—trimethylene glycol di-p-aminobenzoate, hereinafter referred to as "TMAB". Under this law the tariff on the importation of TMAB into the United States is suspended through June 30, 1983.

USES AND DESCRIPTION OF TMAB

TMAB is a safety-oriented, high performance diamine curing agent which was developed by Polaroid with employee health and plant safety in mind. It is suitable for use in the manufacture of a wide range of industrial, consumer and military products ranging from roller skate wheels, to nuclear weapons, to the gears on heavy machinery, to coatings on Polaroid Land Camers products.

TMAB was developed by Polaroid as an alternative to the potential carcinogen 4,4' methylene bis (2-chloroanaline), commonly known as "MOCA". MOCA is currently in widespread use throughout the United States by the urethane industry, an industry which is composed primarily of small processors. It is subject to state regulatory standards and is no longer manufactured in the United States. Most of the MOCA now employed in the United States is imported from Japan.

In January 1974, OSHA published a standard setting a zero exposure limit for MOCA which, had it remained in effect, would have essentially banned its use. This standard was overturned in an action wherein the court upheld OSHA's responsibility to impose exposure limits in light of the available data on the carcinogenicity of MOCA, but remanded because the procedural requirements of OSHA were not observed. *Synthetic Organic Chemicals Manufacturers Association* v. *Brennan,* 506 F2d 385 (3rd Cir., 1974).

TMAB is considerd by industry sources to be the closest substitute now available for MOCA. E. I. DuPont de Nemours Corporation, the inventor of MOCA, and until only a few years ago the largest MOCA manufacturer in the world, evaluated TMAB and publicly assessed it as the only satisfactory MOCA replacement it had seen (see Attachment A).

The cast urethane industry needs a MOCA substitute due to the potential carcinogenicity of MOCA and the termination of MOCA manufacturing in the United States by the only two companies involved in that operation, DuPont and Anderson Development Company of Michigan.

Dataproducts Corporation of Woodland Hills, California, a company which relies on molded urethane products as key components in some of the computer print-out devices it produces, was recently confronted with having to find a substitute for MOCA or drop its affected product line due to the potential carcinogenicity of MOCA. Dataproducts now uses TMAB exclusively in its cast urethane parts and attributes its being able to retain this product line to TMAB (see Attachment B).

The Ihara Chemical Industry Company of Japan, the largest manufacturer of urethane curatives in Japan and a present source of MOCA, has considered TMAB, as well as other alternatives, as a replacement for MOCA. It has concluded that TMAB is the best replacement for MOCA and has discussed with Polaroid the possibility of manufacturing TMAB for the Japanese market (see Attachment C).

In the process of manufacturing polyurethane products, the curative is combined with a urethane prepolymer to form a cast elastomer. In one process the prepolymer used with the curative is derived from toluene diisocyanate (TDI). This combination is known as the TDI System. The mixture of TDI prepolymer and curative is then cast by the processor into its final form.

An alternative cast elastomer system is derived from methylene diphenyl diisocyanate which is employed with curing agents other than MOCA or TMAB, and is known as the MDI System. Although the MDI System results in a polyurethane product, it is not directly interchangeable with the end products of the TDI system. MDI polyurethanes display inherently inferior physical properties compared to TDI polyurethanes. They are also much more difficult to process and work with, and yield losses are significant in comparison with TDI polyurethane yield losses. In addition, many processors are reluctant to change from the TDI to the MDI system because of the latter's increased need for strict process control.

The chemical abstract number for TMAB is 57609-64-0. Polaroid has registered the trademark "Polacure" for this material which is also known as 1,3-propanediol-di-para-aminobenzoate.

SOURCES OF PRODUCTION

TMAB

There are currently no commercial producers of TMAB in the United States. It is currently manufactured by only one company in the world, A. B. Bofors Nobelkemi of Sweden. Bofors began manufacturing TMAB and supplying it to Polaroid when Polaroid was unable to develop a suitable domestic manufacturing ability or source. Bofors and Polaroid entered into an agreement in October of 1980 under which Bofors was to supply Polaroid with 20 metric tons of TMAB by January of 1981 with certain guaranteed minimum quantities to be available through June 30, 1983. Due to manufacturing difficulties at Bofors, Polaroid has yet to receive the original 20 metric ton order. This has caused a significant curtailment of Polaroid's development of a market for this material. Bofors has now made it clear that for business reasons, it has no interest in establishing a manufacturing facility for TMAB in the United States and will not extend the supply agreement with Polaroid beyond June 30, 1983. Bofors has negotiated the termination of that agreement.

Polaroid's reaction to the Bofors situation was to investigate possible other sources of manufacture for TMAB, both domestically and outside the United States. Unfortunately, due to the raw material situation for manufacturing TMAB according to the process used by Bofors and an uncertain market, Polaroid has been unable to attract interest in manufacturing TMAB domestically. DuPont, for one, has stated that it could not make TMAB on an economically competitive basis with non-domestic firms due to its lack of capacity and cost of raw materials.

Though Polaroid has been marketing TMAB since the last quarter of 1980, it has been unable to develop a market for this material at the rate originally anticipated.

This has been due in major part to the inability of Bofors to provide it with sufficient volumes of material. A practical projection for sales of TMAB in 1982 is 80,000 pounds; for 1983, 125,000 pounds; and for 1984, 200,000 pounds. By the end of fiscal year 1983, the potential market for TMAB within the United States could exceed 5 million pounds per year if regulatory standards preclude the use of MOCA. Based upon these projections, Polaroid has decided to establish its own facility to produce TMAB in the United States. Construction of a domestic facility to produce TMAB would take about 18 to 24 months and the facility would be productive probably in the last half of 1984.

Polaroid's decision to produce TMAB in the United States will have the impact of expanding employment opportunities. The construction and operation of the new facility would directly create an estimated 40 jobs, and indirectly affect even a greater number of people since, in addition to providing the United States chemical industry with the capability to produce TMAB, the new facility will probably contribute to production of chemicals now economically available only from foreign sources. Regulatory relief, however, is necessary to insure reasonable price stability between June 30, 1983, when the present tariff relief law on TMAB expires, and June 30, 1984, when Polaroid's TMAB manufacturing facility is expected to be productive.

MOCA

There are now no domestic producers of MOCA. Inventories of domestically produced MOCA have long been depleted and all quantities of this curative now being sold in the United States are imported. Japan is the principal source of this MOCA.

Because it is a potential carcinogen, industry analysts project that worldwide production of MOCA will eventually be drastically reduced if not completely phased out. Major U.S. manufacturing firms such as General Motors and Goodyear have discontinued its use, turning instead primarily to inferior polyurethane systems. There is considerable concern among polyurethane processors that a worldwide shortage of MOCA will develop. This reinforces the need for TMAB.

COST OF PRODUCTION

Cost is the major factor that will determine the success of Polaroid's efforts to market TMAB in the United States. This curing agent is inherently more expensive to manufacture than MOCA because: (a) raw material costs are approximately twice those for MOCA, and (b) the TMAB manufacturing process has three operational steps while only two are required to manufacture MOCA. This cost factor will be especially crucial during the years in which Polaroid is attempting to build the market for TMAB until sufficient demand has been established to gain manufacturing efficiencies of scale and permit the establishment of dedicated high volume manufacturing facilities, preferably in the United States. Polaroid studies indicate that it should be able to market this product successfully at about its current cost to the consumer and still provide a minimum acceptable profit margin. This cost includes no tariff component during the July 1, 1983 to July 31, 1984 period.

A major component of the consumer cost of TMAB imported into the United States after June 30, 1983 and before Polaroid's domestic production is on stream, if this legislation is not passed, will be the import duty. Under the revised chemical tariff negotiated during the multilateral trade negotiations, TMAB was imported under TSUS, Item No. 405.09 at a duty rate of 15.6 percent ad valorem plus 1.7 cents per pound. At a base cost to Polaroid of, for example, $5 per pound, this adds approximately 80 cents per pound to the cost to Polaroid of the material. This would naturally increase with increases in base cost.

MOCA is currently selling in the United States at a price of about $3.75 per pound. The present cost of TMAB to the consumer, with no import duty cost component, is $7.45 per pound. If the duty suspension is not continued, the present day price to the user would be in excess of $8.50 per pound, and it would be doubtful that commercialization could proceed during the period the tariff is imposed. High volume production of this material in the United States might allow a commercial price to the consumer on the order of $6.00 per pound.

Continuation of the suspension of the import duty on TMAB would therefore encourage the use of the TMAB alternative to MOCA. This would, in turn, have a significant impact on the health and safety of employees in plants using these materials. It would also reduce the inflationary impact on urethane processors who decide to purchase TMAB in place of MOCA after June 30, 1983.

REVENUE IMPACT OF SUSPENSION OF THE IMPORT DUTY ON TMAB

Based upon Polaroid's present estimate of the level of importation of TMAB it expects to achieve during the years 1982 through 1984, the ranges of duty payments involved if import duties were to be paid at an assumed TMAB base cost of $5.00 per pound, would be about $64,000 in 1982; $100,00 in 1983; and $80,000 in the first half of 1984.

Because there has been no import duty paid on any significant quantities of TMAB imported into the United States, a continuation of the tariff suspension on TMAB would have no negative impact on the current revenue of the United States Government.

SUMMARY AND CONCLUSIONS

In conclusion, Polaroid Corporation respectfully urges this Committee to approve legislation to continue the suspension of import duties on TMAB through June 30, 1984. This time frame should be sufficient for Polaroid to construct a TMAB manufacturing plant in the United States and reduce its reliance on imported TMAB.

Continuation of the import duty suspension on TMAB would:

A. Facilitate use in the United States of the best available alternative for a potential carcinogen, MOCA.—This bill would help promote use in the United States of a curing agency which does not present the hazards of MOCA.

B. Reduce the inflationary impact of substituting TMAB for MOCA.—Continuation of the import duty suspension would assist in helping the United States urethane industry to convert from MOCA to the more expensive TMAB.

C. Provide economic and health benefits to U.S. producers and workers.—Since there are presently no producers of TMAB in the United States, there would be no U.S. workers losing jobs because of continuation of the import duty suspension for TMAB. In addition, it would reduce exposure to MOCA by many hundreds, and eventually thousands, of United States workers.

D. Lead to both the creation of jobs in the United States and to increased capability of the American chemical industry.—New jobs would be created in both the construction and operation of Polaroid's proposed new facility for the manufacture of TMAB.

E. Have no immediate direct impact on revenue of the United States Government.—Since no import duties are presently being paid on TMAB, continuation of the suspension of import duty payments on this material would create no direct loss of revenue.

Polaroid appreciates the opportunity to present these views to this Committee and the consideration of this Committee of H.R. 5499. We urge the Committee to give this bill favorable consideration and to act upon it as rapidly as Committee business permits.

[ATTACHMENT A]

E. I. DU PONT DE NEMOURS & CO.,
Wilmington, Del., July 26, 1979.

Mr. RICHARD E. BROOKS,
Manager, Commercial Development,
Polaroid Corp., Cambridge, Mass.

DEAR DICK: I understand from your letter of July 6, 1979 that you are proceeding to submit an application for duty suspension for TMAB (Polacure No. 740M) urethane curative. I feel this is a sound action since the price of 4,4' methylene bis (2 chloroaniline), the competition, is substantially lower than that projected for TMAB. As you know, we have studied the manufacuring economics of TAMB and found that due to market uncertainties, lack of available capacity and the need for substantial investment, it was not prudent to consider domestic manufacture of this material.

Since we terminated MOCA production in December of 1978, Anderson Development Company had been the only domestic manufacturer of 4,4' methylene bis (2 chloroaniline) until it was shut down by the State of Michigan Department of Natural Resources. Since Anderson is shut down, only foreign sources of this material remain. However, capacity is less than demand and I feel domestic urethane processors will feel this shortage during the third quarter.

Previously we have stated that TAMB comes as close to being a MOCA substitute as any material we have evaluated. Economics undoubtedly will be major hurdle and any relief you can obtain which would minimize the inflationary impact of

TAMB's pricing vs. 4,4′ methylene bis (2 chloroaniline) would be most helpful in establishing a market for TAMB.

Sincerely yours,

Marvin T. Kuypers,
Marketing Manager,
Urethane Products.

[Attachment B]

Dataproducts,
Woodland Hills, Calif., January 22, 1982.

Dr. Ted Jula,
Polaroid, Freetown,
Assonet, Mass.

Dear Dr. Jula: As the world's largest independent manufacturer of printers for the computer industry. Dataproducts, in early 1972, developed a new concept in high speed heavy duty line printers. This printer incorporates a urethane composite printing belt instead of the conventional drum, chain or steel band configuration. This new urethane composite printing belt was given the designation, Charaband, a registered trade mark of Dataproducts.

The first Charabands were manufactured using adiprene (R) L-100 cured with moca (R). When OSHA placed moca on its list of suspended carcinogens, all work with moca-cured elastomers was terminated at Dataproducts. During this period, other urethane systems were used but none survived to the satisfaction of Dataproducts, the hostile treatment to which the Charaband is subjected in use.

In 1978 Dataproducts inititated a program to develop TDI prepolymer, amine-cured urethane elastomers with properties equal to or superior to the adiprene L-100/moca system.

A unique prepolymer system, based on Polacure (R) 74OM which meets every specification required by the Charaband was developed by Dataproducts. This urethane compound provides excellent physical properties which gives the Charaband (R) Printer belts a degree of reliability heretofore unknown in the industry. In addition to greatly improving the performance of the Charaband printer, Ploacure does not require the strict and costly industrial hygine controls now required by CAL-OSHA for the continued use of moca.

We will, therefore, endorse any action which will guarantee the continuing supply of Polacure to the cast urethane industry.

Yours truly,

Donald K. Skinner,
Director, Engineering,
Components Division.

[Attachment C]

Ihara Chemical Industry Co., Ltd.,
Tokyo, Japan, March 23, 1982.

Dr. William Hodes,
General Manager, Chemical Operations,
Polaroid Corp., Cambridge, Mass.

Dear Dr. Hodes: As the foremost company in Japan manufacturing, marketing, and exporting urethane curatives including Cuamine M, our trade-name for MOCA, the Ihara Chemical Industry Company has considered many compounds as potential replacements for MOCA.

From the many compounds investigated in our research laboratories, we have concluded that your product, Polacure is the best replacement for MOCA in all respects, including safety in handling, as well as performance. We, therefore, would appreciate being kept informed of the present supply situation regarding Polacure, and we support your efforts to make this safe and effective substitute for MOCA available to the USA and world markets.

Sincerely yours,

M. Takahashi,
Assistant Director,
Development Department.

H.R. 5554

To suspend for a three-year period the duty on the radio portion of certain clock radios

U.S. INTERNATIONAL TRADE COMMISSION

Purpose of the legislation

H.R. 5554 proposes to suspend the column 1 duty [1] on the radio portion of consumer-type clock radios of the type provided for under item 685.24 of the Tariff Schedules of the United States (TSUS). [2] The duty suspension would be effective for a period of 3 years after the date of enactment. However, upon request made within 90 days after enactment, merchandise entered or withdrawn from warehouse for consumption during the one-year period prior to enactment and not finally liquidated could be liquidated under the terms of the suspension.

Description and uses

The clock radios which are the subject of this bill are those solid-state (tubeless) radio receivers which incorporate a clock or timing mechanism within the same housing (or casing), hereinafter referred to as "clock radios". These radios may operate from batteries or house current. They are designed principally for consumer use and for the reception of radio signals from the entertainment broadcast bands; however, such bands are not restricted. For example, the radios may receive on other bands such as weather, police or fire, and aviation.

---

[1] Column 1 rates of duty are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, these rates would not apply to products of developing countries where such articles are eligible for preferential tariff treatment provided under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[2] Rates of duty on the clock or timer portion of the radio will remain unchanged, according to the proponent.

The clock portion of the radio may simply display time or sound an audible alarm. However, in most clock radios, the clock may be used to control the radio function by turning the radio on or off at preset times or intervals. Many models can also control external electric devices such as coffee pots.

Clock radios have been in existence since the early 1940's. The clock mechanism of these early radios closed mechanical switches to supply or interrupt power to the radio or external device. In the older clock radios, the clocks were electromechanical analog mechanisms and the radios were of the vacuum tube type. The modern devices contain solid state (transistor) radios and, for the most part, solid state clocks (or timers), both in display and clocking mechanisms. The most popular clocks and timers use crystal-controlled (or line-frequency controlled), microprocessor-type integrated circuits and have digital displays using light emitting solid-state diodes. It is believed that all types of clock radios are imported.

Tariff treatment

Two duty rates are currently applicable to imported clock radios. One duty rate is applied to the radio portion of the apparatus and a different rate is applied to the clock or timer mechanism.

The imported solid-state radio receiver is dutiable under TSUS item 685.24 at a column 1 rate of 8.8 percent ad valorem. This rate of duty is being reduced annually as a result of the recent Tokyo round of Multilateral Trade Negotiations. The final reduction will be achieved on January 1, 1987, and result in a duty rate of 6 percent ad valorem. The 6-percent rate is currently applicable to imports of clock radios from least developed developing countries or "LDDC's" 1/ The column 2 rate of duty, applicable to Communist controlled nations and areas enumerated in general headnote 3(f) of the TSUS, is 35 percent ad valorem on the radio part of the clock radio. Merchandise imported under item 685.24 is eligible for duty-free treatment under the provisions of the Generalized System of Preferences (GSP). 2/ However, merchandise from Hong Kong, Singapore, Taiwan, and the Republic of Korea is not currently eligible for GSP treatment because these countries have exceeded the "competitive need" import limitations as set forth in section 504(c) of the Trade Act of 1974 (19 U.S.C. 2464(c)).

The clock or timing portion of the clock radio has been dutiable separately in accordance with the constructive separation provisions of headnote 5, subpart E, of schedule 7 of the TSUS. However, the solid state clock or timing portions of the clock radio combinations, according to a recent court decision, are not "movements" and would therefore not appear to be subject to the provisions of that headnote concerning constructive separation. 3/

As noted in the previous section, clock radio combinations have been manufactured and sold since the early 1940's. From that time until August 31, 1963, under the principle of constructive separation, the radio portion of the clock-radio combination was classified under paragraph 353 of the

---

1/ The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items which are the products of least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for an item, the rate of duty provided for in the column numbered 1 applies.

2/ The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985.

3/ See "Technical Comments", *infra*.

Tariff Act of 1930, as amended, with a duty rate of 35 percent ad valorem. Upon enactment of the new Tariff Schedules of the United States (implemented under Presidential Proclamation No. 3548, effective August 31, 1963), the subject clock radios were classified in item 685.22 1/ with a 12.5 percent ad valorem column 1 duty rate. The new TSUS continued the established practice of constructive separation of the clock and timing mechanism.

As a result of the Kennedy round of Multilateral Trade Negotiations, solid-state (tubeless) radio receivers were transferred from item 685.22 to item 685.23, and item 685.25 was created to encompass radio apparatus, the remainder of item 685.22. On January 1, 1976, solid-state automobile radios were transferred from item 685.23 to item 685.21 and the remaining solid-state radios (including clock radios) were transferred from item 685.23 to item 685.24, where they are currently classified.

Several court challenges have been made to the consistent Customs practice of classifying solid-state clock radios in item 685.24 and its predecessor items. 2/ In all cases the long established classification practice described herein has been upheld, and the courts determined that the U.S. Customs Service correctly interpreted these provisions and achieved underlying Congressional intent.

1/ The Tariff Classification Study in the proposed schedule 6 of the TSUS had recommended that all radio telephonic and telegraphic apparatus be classified in item 685.20. However, before final publication, television apparatus was placed in item 685.20, leaving all other radio telephonic and telegraphic apparatus in item 685.22.

2/ Montgomery Ward v. United States, decided May 21, 1975, CD 4596; General Electric v. United States, decided September 11, 1979, CD 4822, affirmed in General Electric v. United States, decided May 1, 1980, CAD 1245.

The superior heading to items 685.10 through 685.50 provides as follows:

> Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and television cameras; record players, phonographs, tape recorders, dictation recording and transcribing machines, record changers, and tone arms; all of the foregoing, and any combination thereof, whether or not incorporating clocks or other timing apparatus, and parts thereof (Emphasis added).

The Court of International Trade held, in General Electric that the "whether or not" clause applied to each of the TSUS items cited above. 1/ It also stated that the clause would have been omitted from the superior heading and included only in item 685.50, if apparatus with clock or timing mechanisms were to be classified there. In other words, the clause makes the presence of a clock or timing mechanism irrelevant to the classification of the apparatus--in accord with the classification of these mechanisms in schedule 7. For tariff purposes, clock radios are therefore not "more than" radios and are not combinations for purposes of item 685.50. This interpretation is compelled by the plain meaning of the superior heading coupled with the need to constructively separate the clock mechanisms.

Structure of the domestic industry and domestic shipments

For each year of the period 1976-79, the U.S. Bureau of the Census 2/ listed three or four manufacturers 3/ of clock radios. These manufacturers shipped merchandise valued at $8 million to $10 million. In 1980 Census identified only two companies shipping clock radios; the value of shipments

---

1/ See 83 Cust. Ct. 62, 64.

2/ Current Industrial Report Series MA-36M, SIC Nos. 3651103 and 3651104.

3/ Census makes no indication as to exit or entry from the industry. It is likely that there were 4 manufacturers during this period, not all of whom are believed to have manufactured clock radios in a given year.

in 1980 was not published since only two firms supplied data. 1/ Information on shipments in 1981 is not yet available.

It should be noted that the clock-radio products reported by Census under Standard Industrial Classification (SIC) code Nos. 3651103 and 3651104 are believed to be only the most basic, table top, house current-type radios. In addition to the producers of basic clock radios, there are other firms which produce radio combinations which may contain clocks or timers (such as radios combined with phonographs, tape players, tape recorders, or television sets). These producers, as well as those producers who make portable radios or high fidelity radios, are not included in the calculation of the value of shipments given above since there is no way to estimate the volume of such radios which contain clocks or timing mechanisms. Therefore, it is believed that both the number of U.S. producers and the value of shipments of clock radios may be understated in Census reports.

Although the U.S. International Trade Commission has not conducted a study of the radio industry in the past 20 years, information available to us would seem to indicate that some domestic production of clock radios does exist.

1/ Census does not publish data where few firms are involved, to protect the confidentiality of the business information received.

U.S. imports

U.S. imports for consumption of clock radios during 1977-81 were as follows:

Year	Quantity (1,000 units)	Customs value (1,000 dollars)
1977	10,239	108,838
1978	11,660	120,274
1979	8,802	89,834
1980	9,445	101,357
1981	9,782	108,711

The major sources of imported clock radios in 1981 are shown in the following tabulation.

Source	Quantity	Customs value
	1,000 units	1,000 dollars
Hong Kong	3,495	39,069
Singapore	3,697	38,132
Japan	1,006	13,721
Taiwan	914	10,621
South Korea	151	2,167
Philippines	238	2,069
Malaysia	145	1,850
All other	136	1,442
Total	9,782	108,711

1/ Compiled from official statistics of the U.S. Department of Commerce.

The number and names of the major importing firms of clock radios are not immediately available but can be provided in confidence on request.

U.S. exports

Clock radios are not separately reported in the U.S. export statistics published by the U.S. Department of Commerce. The export data presented below are for all kinds of consumer type radios.

Year	Quantity (1,000 units)	Value (1,000 dollars)
1977	421	7,065
1978	801	21,215
1979	687	26,075
1980	594	20,718
1981	560	19,005

Apparent consumption

The apparent U.S. consumption data shown below are based on estimates of U.S. exports and shipments in 1981. As noted previously in the section on "domestic production," data are not available on radio combinations or high fidelity radios which contain clocks or timers; to this extent, apparent U.S. consumption is understated.

Year	Apparent U.S. consumption 1/	
	Quantity	Value
	1,000 units	1,000 dollars
1977	10,551	114,788
1978	11,938	125,883
1979	9,011	92,597
1980	9,681	105,714
1981	10,050	114,410

1/ Estimated.

Based on the foregoing, it is projected that the annual revenue loss resulting from this legislation would be approximately $9.55 million or $38 million over the period during which the duty would be suspended. 1/

Technical comments

The term "Entertainment broadcast band receivers" in the article description for the proposed new item 912.20 is currently used for purely statistical purposes in TSUSA items 685.2405 and 685.2411 and is defined in statistical headnote 5 to party 5 of schedule 6 as follows:

> 5. For statistical reporting purposes in this part (items 685.21 and 685.24), "entertainment broadcast band receivers" are those receivers designed principally to receive signals in the AM (550-1650 KHz) and FM (88-108 MHz) entertainment broadcast bands whether or not capable of receiving signals on certain other bands (e.g., aviation, television, marine, public safety, industrial, and citizens band).

Since statistical headnotes are not applicable to legal provisions, it is suggested that the substance of this headnote be included, either within the article description of the new item or as a new headnote in part 1B of the Appendix.

An additional complication to the effective administration of the bill has been created by the decision in United States v. Texas Instruments, Inc., decided March 25, 1982, Appeal 81-23. Affirming the Court of International Trade, 2/ the Court of Customs and Patent Appeals reiterated that solid-state electronic clock mechanisms are not "movements". Thus, they are not within

---

1/ The bill provides for 3 years of duty suspension from the time of enactment. The bill also provides for a refund of duties paid on entries liquidated during the year prior to enactment upon filing of a timely request by the importer.

2/ Texas Instruments, Inc. v. U.S., 1 CIT ___, Slip Op. 81-38 (April 17, 1981).

> 5. For statistical reporting purposes in this part (items 685.21 and 685.24), "entertainment broadcast band receivers" are those receivers designed principally to receive signals in the AM (550-1650 KHz) and FM (88-108 MHz) entertainment broadcast bands whether or not capable of receiving signals on certain other bands (e.g., aviation, television, marine, public safety, industrial, and citizens band).

Since statistical headnotes are not applicable to legal provisions, it is suggested that the substance of this headnote be included, either within the article description of the new item or as a new headnote in part 1B of the Appendix.

An additional complication to the effective administration of the bill has been created by the decision in United States v. Texas Instruments, Inc., decided March 25, 1982, Appeal 81-23. Affirming the Court of International Trade, 1/ the Court of Customs and Patent Appeals reiterated that solid-state electronic clock mechanisms are not "movements". Thus, they are not within the constructive separation provisions of headnote 5, subpart E, part 2 of schedule 7, which deal only with the movements. As a result, the proposed legislation would affect the solid state clock or timing portions of clock radios. The proposed item is likely to be interpreted as granting temporary free entry to such clock or timing mechanisms, which are now classified in item 688.45 when imported separately, since it appears to treat the clock radios as combinations. To avoid this result, it is necessary to add "or modules" following each appearance of the word "movements" in headnote 5, part 2E, schedule 7, or to add a similar headnote in part 5 of schedule 6 substituting "modules" for "movements". This change would require constructive separation of solid state clock mechanisms, in addition to the conventional clock movements unaffected by the decision.

1/ Texas Instruments, Inc. v. U.S., 1 CIT ___, Slip Op. 81-38 (April 17, 1981).

COMMENTS OF THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

The AFL-CIO opposes H.R. 5554. This bill provides for a three-year suspension of the tariff on clock radios. These are solid state radio receivers and incorporate a clock or timing mechanism. United States production of these radios has been virtually demolished over the years. The suspension of duty could therefore assure that the U.S. would not get any return of production to the United States when firms encounter higher costs abroad. The duty reduction could offset that change. The job loss in this industry has already been great. It is unrealistic to assure that it is permanent and that future job opportunities will be foreclosed.

H.R. 5707

To permit the importation of furs that are the product of the People's Republic of China

U.S. INTERNATIONAL TRADE COMMISSION

Purpose of the legislation

H.R. 5707, if enacted, would end the prohibition on imports into the United States of ermine, fox, kolinsky, marten, mink, muskrat, and weasel furskins which are the product of the People's Republic of China (PRC). This would be accomplished by striking out the reference to the PRC now contained in headnote 4 to subpart b, part 5 of schedule 1 of the Tariff Schedules of the United States (TSUS). The prohibition has been in effect since June 1951. The legislation would not affect the prohibition on imports into the United States of such furskins which are the product of the U.S.S.R.

Description and uses

The raw mink furskin of commerce (TSUS item No. 124.10) consists of the entire pelt including head, tail, and paws. All raw furskins are dressed to preserve them indefinitely in a pliant state before being made into an article of apparel. In the dressing process, the skin is tanned and the fur is cleaned and brushed. Mink furskins that are dressed but not dyed are classifiable under TSUS item No. 124.25. Mink furskins are seldom dyed, inasmuch as the dyed product does not command as high a price as do natural furskins of comparable quality. The mink furskins that are dressed and dyed are classifiable under TSUS item No. 124.65. Dressed mink furskins are used almost exclusively in the manufacture of fur coats, fur jackets, fur stoles or wraps, and as fur trim on cloth or leather coats.

Ermine furskins (classifiable under TSUS item No. 124.10, if raw or not dressed; TSUS item No. 124.25, if dressed but not dyed; and TSUS item No. 124.65, if dressed and dyed) are derived from small weasel-like animals found most commonly in the U.S.S.R. Ermine furskins are used chiefly in the manufacture of expensive jackets and coats.

Silver, black, and platinum foxes are variations of the common red fox. They and their mutations, rare in the wild state, have been produced successfully on fur ranches by selective breeding. Silver fox furskins have a mixture of gray and black guard hairs which gives the pelt a silver color cast. Platinum fox has a fur which approximates the platinum color. Black fox furs are not commercially important. Furskins from silver, platinum, and black foxes and mutations thereof are classifiable under TSUS item No. 123.50. Other fox furskins (classifiable under TSUS item No. 124.10, if raw or not dressed; TSUS item No. 124.25, if dressed 124.65, if dressed and dyed) include those from the Arctic as well as red and grey foxes. Much of the production of these furskins comes from the wild catch.

The furskins of foxes are used chiefly in the manufacture of jackets, neck pieces, coats, and as trim on cloth coats. Fox is bulkier than most other furs and is much less fashionable today than it was when it was the principal fur, prior to World War II.

Kolinsky furskins (classifiable under TSUS item 124.10, if raw or not dressed; TSUS item No. 124.25, if dressed but not dyed; and TSUS item No. 124.65, if dressed and dyed) are derived from kolinskies, animals closely resembling minks. Kolinskies are found in and near Siberia and Manchuria. Kolinsky furskins may be used to make coats and jackets but are often used as trimming.

Marten furskins (classifiable under TSUS item No. 124.10, if raw or not dressed; TSUS item No. 124.25, if dressed but not dyed; and TSUS item No.

124.65, if dressed and dyed) come from animals that closely resemble sables. Marten are found in the United States and Canada and certain closely related animals are found in the USSR and China.

Mink furskins are obtained from animals that grow both in the wild and in captivity. The mink raised in captivity throughout the world is a descendant of the wild mink of North America and is known as ranch mink. 1/

Muskrat furskins (classifiable under TSUS item No. 124.10, if raw or not dressed; TSUS item No. 124.40, if dressed but not dyed; and TSUS item No. 124.80, if dressed and dyed) are obtained from animals somewhat like but much smaller than the beaver, and lacking wide, flat tails. Muskrat furskins are less expensive than the previously discussed furskins; they are most often used in the production of coats and jackets.

Weasel furskins (classifiable under TSUS item No. 124.10, if raw or not dressed; TSUS item No. 124.40, if dressed but not dyed; and TSUS item No. 124.80, if dressed and dyed) are derived from various types of weasels. Weasels are found throughout the world. Weasel furskins are commonly used for fur trim.

Plates, mats, linings, strips, and crosses of fur (TSUS item Nos. 124.20 and 124.60) are oblong, square, or cross-shaped semimanufactures of fur made by sewing together pieces of dressed or dressed and dyed furskins of animals including, but not limited to, those affected by this legislation. The

---

1/ Furskins of the so-called North American mink (Mustela vison) and the European mink (Mustela lutreola) are the only furskins that may be labeled or sold in the United States as mink, pursuant to regulations issued by the Federal Trade Commission (FTC). Since May 14, 1967, furskins of Japanese mink (Mustela itatsi) and Chinese mink (Mustela sibirica) must be designated as Japanese weasel or Chinese weasel, respectively, according to the FTC. For purposes of this report, all such animals are considered to be minks.

furskin pieces are sewn into these forms chiefly to make them suitable for use by the fur garment industry and to facilitate handling. Plates and related articles are usually used for low-and medium-priced fur garments and for trimmings on cloth coats.

Tariff treatment

The existing tariff rates of duty and Generalized System of Preferences 1/ status for the TSUS items potentially affected by the legislation are shown in the tabulation that follows:

1/ The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985.

TSUS item No.	Description	Rate of duty			GSP treatment 4/
		Col. 1 1/	LDDC 2/	Col. 2 3/	
123.50	Silver, black or platinum fox furskins etc., whether or not dressed	14.6% ad val.	8% ad val.	50% ad val.	Yes
124.10(pt.)	Other furskins, raw or not dressed	Free		Free	
124.20(pt.)	Plates, mats, linings, strips, crosses, or similar forms, dressed, not dyed	7.3% ad val.	5.3% ad val.	35% ad val.	Yes
124.25(pt.)	Ermine, fox (except silver fox, etc.) kolinsky, marten, or mink furskins, dressed, not dyed	2.4% ad val.	2.1% ad val.	25% ad val.	Yes
124.40(pt.)	Other furskins, dressed, not dyed	5% ad val.		25% ad val.	Yes
124.60(pt.)	Plates, mats, linings, strips, crosses or similar forms dressed, dyed	8.4% ad val.	5.8% ad val.	40% ad val.	Yes
124.65(pt.)	Ermine, fox (except silver fox, etc.) kolinsky, marten, or mink furskins, dressed, dyed	3.7% ad val.	3.1% ad val.	30% ad val.	Yes
124.80(pt)	Other furskins, dressed, dyed	4.7% ad val.	2.4% ad val.	30% ad val.	Yes

See footnotes on following page.

Footnotes from previous page.

1/ The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries since they are granted preferential tariff treatment under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

2/ The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

3/ The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items which are the products of least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided for in column numbered 1 applies.

4/ A "Yes" indicates preferential treatment granted to imports from all beneficiary developing countries.

TSUS item Nos. 123.50, 124.20, 124.25, 124.60, 124.65, and 124.80 are subject to staged reductions in their column 1 rates of duty as negotiated under the Tokyo round of the General Agreement of Tariff and Trade. The staged reductions are shown in the tabulation below:

TSUS item No.	Prior rate	Rates of duty 1/ effective with respect to articles entered on and after Jan. 1—							
		1980	1981	1982	1983	1984	1985	1986	1987
123.50	18.5% ad val.	17.2%	15.9%	14.6%	13.3%	11.9%	10.6%	9.3%	8.0%
124.20	8.5% ad val.	8.1%	7.7%	7.3%	6.9%	6.5%	6.1%	5.7%	5.3%
124.25	2.5% ad val.	2.5%	2.4%	2.4%	2.3%	2.3%	2.2%	2.2%	2.1%
124.60	10% ad val.	9.5%	9.0%	8.4%	7.9%	7.4%	6.9%	6.3%	5.8%
124.65	4% ad val.	3.9%	3.8%	3.7%	3.6%	3.4%	3.3%	3.2%	3.1%
124.80	6% ad val.	5.6%	5.1%	4.7%	4.2%	3.8%	3.3%	2.9%	2.4%

1/ The symbol "%" indicates percent ad valorem.

Structure of the domestic industry

The domestic industries which would be affected by enactment of the legislation are those that produce furskins and those that dress furskins and manufacture garments.

Furskins are derived from animals (usually mink and, to a lesser extent, foxes) which are either raised in captivity on fur farms or ranches or are obtained from the wild catch of trappers and hunters.

In 1980, the latest year for which data are available, there were 1,122 mink ranches in the United States; this number has not changed appreciably in recent years. The leading States (in number of mink ranches) and percent of total U.S. mink ranches are shown in the tabulation on the following page:

State	Number of mink ranches	Percent of U.S. total
Wisconsin	267	24
Utah	190	17
Minnesota	158	14
Idaho	50	4
Iowa	49	4
All other	408	36
Total	1,122	100

Officials of the National Board of Fur Farmers, an industry trade association, indicate that almost all fur farms are small-scale, family-owned businesses and that no individual or small group accounts for a significant share of that industry's sales.

There are an estimated one million to two million individuals who trap and hunt for furskins in the United States. Only a small portion derive a significant income from such activities, and no one individual or firm accounts for a significant part of the trapping industry. The estimated income derived from all wild furskins has totaled $150 million to $200 million annually in recent years. Most trappers, hunters, and dressers handle furskins of a variety of species of animals.

The number of U.S. furskin dressers has been in a long-term decline. The relatively few remaining dressers are concentrated in the New York City area.

Domestic production

Only limited data are available concerning domestic production of furskins of the type affected by this legislation. Data on the number of mink pelts produced on mink ranches in the United States and the value of such production, as collected by the U.S. Department of Agriculture, is shown in the tabulation on the following page:

Year	Mink pelts produced (million)	Value of mink pelts produced (million dollars)
1976	3.0	87.8
1977	3.1	87.1
1978	3.4	132.0
1979	3.4	139.5
1980	3.5	123.6

Data, as collected by the Fur Resource Committee of the International Association of Fish and Wildlife Agencies, or the wild catch of fur-bearing animals of the type affected by the legislation are shown in the tabulation below:

Species 1/	Number caught in 1977 2/ (1,000 animals)	Value of furskins (1,000 dollars)
Muskrat	5,634	28,965
Fox	584	27,537
Mink	251	3,016
Marten	36	694
Weasel	10	14

1/ U.S. ermine catch is reported to be minimal; data are not collected. The kolinsky is not found in the United States.

2/ 1977 is the latest year for which data are available. Officials of the Fur Resource Committee indicate that data for more recent years may be published by the end of 1982.

U.S. imports

As previously discussed, imports into the United States of the furskins enumerated in the head[illegible], which are the product of the PRC and the U.S.S.R., have been prohibit[illegible] 1951. Prior to the prohibition, the PRC and the U.S.S.R. had been major suppliers of such furskins to the United States.

Complete data concerning U.S. imports of furskins of the type affected by the legislation are not available. Furskins of four of the species covered by the headnote (ermine, kolinsky, muskrat, and weasel) are not separately provided for but instead are classifiable with other species not affected by the legislation under several "other" TSUS basket categories. Also, two TSUS item

Nos. (124.20 and 124.60) describe furskins on the basis of their forms (plates, mats, and so forth) rather than by the species of animal. Separate import data on the enumerated species are not available.

Data on the value of U.S. imports of furskins of the species of animal affected by the legislation (fox, marten, and mink), and separately provided for in the TSUS, are shown in the tabulation below:

Year	U.S. imports (1,000 dollars)
1977	92,398
1978	107,121
1979	135,771
1980	105,878
1981	126,576

U.S. imports of mink furskins have accounted for about 80 percent of the imports shown above and fox furskins have accounted for nearly all of the remainder. The leading suppliers to the United States of mink, fox, and marten furskins in 1981 were Denmark, Finland, Norway, and Canada.

Data on the value of U.S. imports of furskins classified in the miscellaneous or "other" TSUS basket categories (and which include an unknown amount of the furskins of the type covered by the import restrictions and of U.S. imports of furskins classified on the basis of their forms (plates, mats, and so forth) are shown in the tabulation below.

Year	U.S. imports (1,000 dollars)
1977	21,098
1978	24,977
1979	28,530
1980	26,219
1981	29,131

Suppliers of the furskins tabulated above include Greece, New Zealand, France, West Germany and many others.

The possible range in the value of U.S. imports of furskins of the types affected by the legislation is shown in the tabulation below:

Year	Range in value of U.S. imports of furskins of the type affected by H.R. 5707 1/ (1,000 dollars)
1977	92,398 - 113,496
1978	107,121 - 132,098
1979	135,771 - 164,301
1980	105,878 - 132,097
1981	126,576 - 155,707

1/ The lower figure is the value of imports into the United States of fox, marten, and mink furskins; the higher figure is those species plus total imports of "other" TSUS basket categories.

Imports into the United States of furskins of the types enumerated in the headnote from countries receiving the column 2 rate of duty amounted to about $0.5 million in 1981, or less than 1 percent of total imports of the subject furskins.

U.S. exports

Data concerning U.S. exports of furskins of the type affected by the legislation are reported only for whole fox furskins, not dressed; whole mink furskins, dressed and not dressed; whole muskrat furskins, not dressed. The value of such exports are shown in the tabulation below:

Year	U.S. exports (1,000 dollars)
1977	1/ 64,711
1978	129,342
1979	205,560
1980	232,843
1981	189,909

1/ Only whole mink furskins, not dressed, and whole muskrat furskins not dressed; data concerning the value of U.S. exports of whole fox furskins not dressed, and whole mink furskins, dressed, were not separately reported in 1977.

Apparent U.S. consumption

Inasmuch as adequate data concerning U.S. production, imports, and exports of furskins of the type affected by the legislation are not available, data on consumption are not available.

Potential annual gain of revenue

To the extent that ending the prohibition on U.S. imports of the enumerated furskins from the PRC resulted in an increase in total imports of such furskins, there would be a gain in customs revenue. Such furskins would be dutiable at column 1 rates of duty. Inasmuch as TSUS item No. 124.10 is free of duty, ending the prohibition of imports from the PRC of items classifiable under that number would have no effect on customs revenue.

For all of the species, except the kolinsky, the PRC would have to compete with existing suppliers to the U.S. market. The PRC would have an advantage in kolinsky furskins because it is believed to be one of the few countries in the world to produce significant quantities; also, imports into the United States from the world's main producer, the U.S.S.R., are prohibited.

Because of its abundant supply of labor, there is a tendency for the PRC to try to export finished goods, such as fur garments, rather than raw materials. In 1980, for example, the value of exports of fur garments from the PRC to all countries was about $68 million, more than twice the value of exports of raw furskins.

COMMENTS OF THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

The AFL-CIO supports H.R. 5707 to lift the embargo on Chinese furs which has been in effect since the 1950's. The U.S. fur industry and its employees need raw furs in order to have production and jobs. The People's Republic of China exports furs to other countries and the finished garments from these countries can be imported to undercut both jobs and production here. Thus, there seems to be no reason to maintain an embargo or a duty on these raw furs.

STATEMENT OF ARNOLD MAYER, INTERNATIONAL VICE PRESIDENT AND DIRECTOR OF GOVERNMENT AFFAIRS, UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION (AFL-CIO)

My name is Arnold Mayer. I am an International Vice President and the Director of Government Affairs of the United Food and Commercial Workers International Union (AFL-CIO).

The UFCW is a labor union with 1.3 million members organized in some 700 local unions throughout the United States and Canada. The UFCW and its local unions have collective bargaining agreements with tens of thousands of employers throughout the food processing, retail sales, fur, leather, health, commercial, shoe and other industries.

Some 10,000 members of our union work in the fur industry. In addition, almost a quarter of a million Americans depend in one way or another on the American fur industry.

The UFCW strongly supports H.R. 5707, a bill introduced by Chairman Sam M. Gibbons to permit the importation of furs produced in the People's Republic of China. The bill would at long last lift the embargo on Chinese furs which has been in effect since 1950s.

The American fur industry and its employees depend on their economic well-being on a plentiful supply of raw furs. The embargo on Chinese furs, enacted during a period of great hostility between the People's Republic of China and the United States hurts Amercian fur workers by depriving them of a source of raw materials upon which to work. Yet, it has no correspondingly harmful effect upon the country at which it is aimed. China has no difficulty whatsoever in exporting its furs to countries that have no such embargo.

The embargo becomes even more senseless because garments manufactured in other countries from the banned furs may be, and are, freely imported into the U.S.—from Canada for example. Thus, fur workers in other countries have the opportunity to work on these skins, and the garments made from them are sold to American consumers. The only losers are the American fur workers and American fur industry.

This is a period when the American fur industry is increasingly vulnerable to competition from abroad, where skins are processed and garments produced at wages and conditions far inferior to those that have been achieved here after many years of struggle and sacrifice. Congress should not add to the industry's and workers' burden by maintaining an artificial and injurious restriction on fur skins from China. We, therefore, respectfully urge you to approve H.R. 5707.

On another bill before the Subcommittee, we oppose H.R. 5386, a measure to provide for the temporary duty-free treatment of imported hatters' fur. This bill has exactly the opposite effect as H.R. 5707. It would cost the American fur industry and the American fur workers dearly. It would have a serious effect on those U.S. plants and employees involved in the processing of fur for hats.

H.R. 5730

To apply duty-free treatment to triphenyl phosphate

U.S. INTERNATIONAL TRADE COMMISSION

Purpose of the legislation

H.R. 5730, if enacted, would amend subpart C of part 1 of schedule 4 of the Tariff Schedules of the United States (TSUS) to provide permanent duty-free treatment for triphenyl phosphate. This would be accomplished by striking out item 409.34 and inserting in lieu thereof the following:

"

	Products chiefly used as plasticizers:			
409.35	Triphenyl phosphate.........	Free		Free
409.36	Other.............	1.3¢ per lb. + 17.7% ad val.	0.1¢ per lb. + 17.7% ad val.	7¢ per lb. + 57% ad val.

."

The provisions of this legislation would apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after its date of enactment.

Description and uses

Triphenyl phosphate (TPP) is a colorless, odorless crystalline powder. It is used principally as a fire-retarding agent and as a plasticizer of cellulose acetate and nitrocellulose which are used in the manufacture of photographic and other films. TPP reduces the flammability of these films and increases their flexibility, making them safer and easier to handle. More than 75 percent of all TPP produced is used in these applications.

TPP is manufactured from phenol and phosphorus oxychloride. Hydrogen chloride, a commercially useful byproduct, is also produced in the process.

Tariff treatment

According to the Customs national import specialist, TPP is properly classified under TSUS item 409.34 ("products chiefly used as plasticizers") with a column 1 1/ rate of duty of 1.1 cents per pound + 17.7 percent ad valorem. This rate represents the third of eight reductions, the first of which took place on July 1, 1980, with further reductions occuring on January 1 of each year 1981 through 1987. These staged duty modifications, negotiated under the Tokyo round of Multilateral Trade Negotiations (MTN), are shown in the following tabulation:

Year	Rate of duty 1/ effective with respect to articles entered on or after January 1	Ad valorem equivalent of compound duty rate 2/
1980 3/	1.5¢/lb + 17.7%	19.9%
1981	1.3¢/lb + 17.7%	19.6%
1982	1.1¢/lb + 17.7%	19.3%
1983	0.9¢/lb + 17.7%	19.0%
1984	0.7¢/lb + 17.7%	18.7%
1985	0.5¢/lb + 17.7%	18.4%
1986	0.3¢/lb + 17.7%	18.1%
1987	0.1¢/lb + 17.7%	17.8%

1/ The symbol "%" means "percent ad valorem".
2/ Based on 1980 imports of all plasticizers entered in this basket, except phthalic acid esters.
3/ The column 1 rate was 1.7 cents per pound + 17.7 percent ad valorem prior to July 1, 1980. This represents an average ad valorem equivalent of 20.2 percent based on 1980 imports.

1/ The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

The rate of duty in column "LDDC" 1/ for item 409.34 is 0.1 cent per pound + 17.7 percent ad valorem, which is the final staged rate negotiated under the MTN. This rate would continue to be applied to plasticizers other than TPP in new item 409.36, while the LDDC rate for TPP would be eliminated as a result of this legislation. The column 2 2/ rate of duty for item 409.34 is 7 cents per pound + 57 percent ad valorem. This rate would apply to other plasticizers classified in item 409.36, while the column 2 rate for TPP would be reduced to free as a result of the legislation. Plasticizers classified in item 409.34 are eligible for duty-free treatment under the Generalized System of Preferences (GSP). 3/

Although a statistical annotation for "triphenyl phosphate" exists under TSUS item 404.48, the Customs import specialist assures us that, since they have determined that TPP is chiefly used as a plasticizer, it would be improper to classify TPP under item 404.48. (This matter has been referred to the so-called "484(e) Committee", which is responsible for statistical annotation of the Tariff Schedules, so that the annotation can be removed from item 404.48.)

1/ The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items which are the products of least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided for in column numbered 1 applies.

2/ The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

3/ The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985.

Structure of the industry

Monsanto Co. and Eastman Kodak Co. were the only producers of TPP in 1981. Monsanto has indicated that they permanently ceased production of this product during 1981. [1] It is estimated by industry observers that most of Eastman Kodak's production is consumed captively in their photographic film manufacturing operations. As a result, U.S. open market demand for TPP is likely to be satisfied principally by imports in the future.

Domestic production

Separate production data are not available for TPP. However, an industry representative estimates that total U.S. production of TPP did not exceed 10 million pounds annually during 1978-81.

U.S. imports

Import statistics for TPP are not separately available, and industry sources were not able to provide estimates of the volumn of TPP imports. Some imports of TPP were erroneously reported for 1981 in item 404.48, totaling $666,000; because of the apparent ambiguity as to classification, this figure does not represent all imports and may not be accurate, since the view of Customs supports classification in 409.34. All imports are believed to come from the United Kingdom, imported by Monsanto.

U.S. exports

Export statistics for TPP are not separately available, but industry representatives indicate that they believe exports are negligible.

---

[1] Based on conversations with John Orem, et. al, at Monsanto in November 1981.

Apparent U.S. consumption

Industry sources estimate that annual domestic consumption of TPP was less than 10 million pounds in 1981 and is not expected to exceed that figure in the near future.

Potential annual loss of revenue

Due to the absence of data on imports, it is not possible to provide an accurate estimate of the potential loss of revenue which would be likely to result from the enactment of this legislation. However, based on a very rough estimate that approximately 1 million pounds of TPP are imported annually (valued at approximately $730,000), the estimated annual loss of revenue calculated on the 1981 column 1 rate would be approximately $140,000.

Technical comments

Since the column 1 rate for item 409.34 dropped to 1.1 cents per pound + 17.7 percent ad valorem on January 1, 1982, the column 1 rate for proposed item 409.36 should be amended by substituting "1.1" for "1.3", to reflect that reduction.

To apply the scheduled reductions in duty rates to new item 409.36 and to provide for the eventual elimination of the LDDC rate (since all LDDC rates are to be removed from the TSUS by 1987), the following sections should be added:

> Sec. 2. The rate of duty in column numbered 1 for item 409.36 (as added by section 1) shall be subject to any reductions proclaimed by the President for item 409.34.
>
> Sec. 3. Whenever the column 1 rate of duty for item 409.36 (as added by section 1) is reduced to the same level as, or to a lower level than, the corresponding rate of duty inserted in the column entitled "LDDC", the rate of duty in the column entitled "LDDC" shall be deleted from the TSUS.

Proposed section 2 in the draft legislation would then be renumbered as 4.

Statement of David S. J. Brown, Monsanto Co.

Monsanto Company urges enactment of H.R. 5730 which would provide duty free treatment of triphenyl phosphate ("TPPA"). Monsanto is a former manufacturer of TPPA which is used primarily as a flame retardant additive in cellulosic films, plastics and other products.

In 1980, Monsanto made the business decision to close its production facility after the domestic market had declined in size to a point where our production facility could not continue to be operated economically.

There was and is no other domestic source of TPPA for commercial use. There are currently two domestic producers. One, Eastman Chemical Company, produces solely for its own use; the other, Alfa Division of Ventron, manufactures only in laboratory quantities (very small). In neither case is a domestic supply available. Consequently, Monsanto has had to look outside the United States for the supply of TPPA. Monsanto has been purchasing TPPA from Ciba Geigy in the United Kingdom.

Duty on imported TPPA is currently assessed at 1.1 cents per pound plus 17.7% ad valorem. This amounts to a nearly 20% import duty which is an extremely high tariff barrier for a product for which there is no domestic competitor.

Because Monsanto must purchase TPPA from abroad, we sought to have the duty lifted as in the legislation H.R. 5730. The Administration has indicated that it would not oppose suspension of the duty for three years. While Monsanto believes that the domestic supply situation will not have become more favorable in those three years and that, as a result, it would be appropriate to remove the duty on TPPA rather than merely suspend it, we are able to understand the preference which the Administration has requested for a three year duty suspension and will not oppose that position.

We respectfully urge that the subcommittee report H.R. 5730 favorably and that enactment occur as soon as is possible so that the current duty imposition on importation of TPPA may cease.

H.R. 5758

To amend the Tariff Schedules of the United States with respect to the dutiable status of watches and watch movements from insular possessions of the United States

COMMENTS OF THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

The AFL-CIO opposes H.R. 5758, which remove the provisions of present law requiring that no more than 70% of the value of watches and watch movements from insular possessions can be foreign content in order to be eligible for duty-free entry. This bill allows 100% foreign content. Thus, the bill will not help anyone in the insular possessions to make watches, but will, in fact, create a duty-free entry point for foreign watches. Unemployment is already high in the Virgin Islands.

H.R. 5764

Relating to the tariff treatment of dolls and certain other toy figures

STATEMENT OF CAMERON CLARK, JR., PRESIDENT, COMMITTEE FOR 806.30 AND 807, INC.

As President of the Committee for 806.30 and 807, Inc., I am privileged to submit these comments on behalf of the Committee, a group of domestic manufacturers, importers, customs brokers, freight forwarders and banks, whose principal objective is to preserve Items 806.30 and 807.00 of the Tariff Act and thus insure continued employment of thousands of American workers. I am also President of my own firm Production Sharing International, Ltd., of Southport, Connecticut.

It is the Committee's position that H.R. 5764 is contrary to the basic trade policy and economic interests of the United States in that it would result in a reduction of employment opportunities for American workers and the undermining of the recently introduced Caribbean Basin Initiative (CBI).

Under current law, the majority of stuffed dolls and toys imported into the United States are free of duty in accordance with the Generalized System of Preferences (GSP). To qualify for this preferred tariff status, 35 percent of the appraised value of the imported articles must be attributable to materials produced in or processing performed in the developing country from which the articles are exported to the United States. Sizeable minority of stuffed doll and toy imports are entitled to a preferred tariff treatment in accordance with Item 807.00 of the Tariff Schedules, whereby duty is not assessed on American made fabricated components (i.e., textile doll skins). The GSP program and Item 807.00 enhance the economic and policy interest of the United States. They contribute to the development of industries in the world's poorer nations, without adversely affecting American employment opportunities.

In contrast, H.R. 5764, which would allow free entry for many stuffed toys and dolls regardless of where these articles are manufactured, regardless of the degree of processing performed in a developing nation, regardless of whether the material utilized to produce a textile doll skin is produced in the United States defeats these basic principles. If enacted, H.R. 5764 would result in a severe competitive disadvantage for those American companies sending American made fabric to Caribbean Basin nations for sewing into skins for stuffed toys and dolls. It will remove any incentive to utilize American made, as distinguished from foreign made textile components, in the production process. And since duty free importations will be allowed even if less than 25 or 35 percent of the appraised value of the imported article is attributable to a particular developing country, the bill will not benefit the world's developing nations, which include those Caribbean Basin nations which need our continued support and which have recently begun stuffed doll and toy production substantial commercial quantities.

In addition, it is our judgement that H.R. 5764 represents a clear departure from the concepts and philosophies of the Caribbean Basin Initiative as presented by President Ronald Reagan in his February 24, 1982 remarks before the Organization of American States and subsequently before Congress in the Caribbean Economic Recovery Act. Should H.R. 5764 be enacted into law, it would seriously discourage intended investment in the production of stuffed dolls and toys on the part of U.S. corporations in the Caribbean Basin region. These investment initiatives are a key part of the President's Caribbean Basin Initiative.

Thus, not only is H.R. 5764 totally unnecessary to further the economic interests of the United States, but it also is contrary to our need to keep American workers employed and to help our closest neighbors. This proposed legislation, therefore, should not be enacted into law.

EDEN TOYS, INC.,
New York, N.Y., June 3, 1982.

Re: H.R. 5764—A bill to eliminate duty on doll clothing, stuffed dolls, and certain stuffed toys.

JOHN J. SALMON, Esq.,
Chief Counsel, Subcommittee on Trade, Committee on Ways and Means, Washington, D.C. 20515

DEAR SIR: These comments are submitted in opposition to H.R. 5764, a bill intended to eliminate the import duty on several categories of stuffed toys and dolls.

Unlike Knickerbocker Toy Company, the company which persuaded Congressman Guarini to introduce H.R. 5764, which is a wholly owned subsidiary of Warner Communications, Eden Toys is a relatively small, privately owned company which has been owned and operated as a family business since 1966.

Eden is one of this countries leading domestic manufacturers and importers of stuffed dolls and toys, selling a wide variety of these articles (including the "Paddington Bear" and "Beatrix Potter" collections) throughout the United States.[1] Eden Toys currently employs over 200 persons in our manufacturing facility in Jersey City, New Jersey, while importing finished stuffed dolls and animals, as well as skins to be stuffed in the United States, from countries in the Orient and Caribbean Basin.

Based on my experiences as owner of Eden Toys and my position as a former president of the Toy Manufacturers of America, I feel that Eden is representative of numerous companies in our industry, who do not have the corporate resources to introduce and lobby for their own private import relief measures, and who are forced to depend on the Congress and the Administration to ensure that individual companies are not provided with favored positions in our highly competitive industry.

Eden's opposition to H.R. 5764—and our inability to understand how the Reagan Administration and Congress would ever consider supporting this measure in its current form—is based on several related factors.[2]

First, under our tariff classification system, the vast majority of stuffed dolls and toy figures imported into the United States are already entitled to duty-free entry in accordance with the Generalized System of Preferences (GSP). However, because of the competitive need limitations of the GSP, stuffed dolls from Taiwan, and certain stuffed toy figures from Korea are no longer eligible for free entry. One of the reasons why stuffed toys from these countries are no longer eligible for the GSP is to further the development of low income developing countries, who are in greatest need of this preferred tariff status. In the case of stuffed toys and dolls, this policy appears to have succeeded, as the greatest percentage increase in imports of stuffed toy figures to the United States has been from the world's poorer countries. Passage of H.R. 5764 would completely eliminate the advantage currently enjoyed by these poorer nations vis a vis the more advanced developing nations of Taiwan and Korea. The bill, therefore, is totally inconsistent with U.S. trade policy (and the Administration's "graduation" policy) regarding the GSP.

Similarly, H.R. 5764 appears to undermine the Administration's Caribbean Basin Initiative ("CBI") which is intended to transform this less developed group of nations "from a region of despair and frustration into a region of peace and freedom." By allowing free entry for stuffed toys and dolls imported from all nations, H.R. 5764 would completely eliminate any competitive advantage our extraordinarily impovershed neighbors would receive from the CBI.

Stuffed dolls and animals are perfectly suited for production in the Caribbean Basin and the recent increase of manufacturing facilities in Haiti and other South and Central American countries has resulted in increased employment and the development of managerial and organizational skills in these nations. Thus, not only would passage of H.R. 5764 have an adverse psychological effect on our already sensitive relations with the United States' closest neighbors, it could result in decisions by some companies to continue production of stuffed toys and dolls in the Far East rather than sourcing these articles from countries in the Caribbean.

An additional reason why we feel that H.R. 5764 is contrary to the economic interests of the United States involves our nations' objective of eliminating tariff and non-tariff barriers to trade for American exports. Liberalization of U.S. trade restraints, whether in the form of reducing duty rates or eliminating nontariff barriers, should be based on our receipt of reciprocal concessions from other nations. The U.S. position in the world economy will only be enhanced if other countries follow our lead and allow products made in the U.S.A. to be imported free of duty. H.R. 5764 is an expensive give-a-way. The world's developed nations continue to assess duty on stuffed toys and dolls produced in the United States. There is no reason why the U.S. should eliminate its import duty on these articles without receiving reciprocal concessions from our trading partners.

---

[1] A copy of our Spring 1982 catalog is attached to this letter.

[2] While Eden was aware that the legislation had been introduced, we assumed that it would receive strenuous opposition from the Administration and would not have any chance of success in Congress. Thus, we did not believe that it would be necessary to utilize our comparatively limited resources to affirmatively oppose this measure. We feel compelled to submit these comments at the present time because we have been advised that H.R. 5764 may not be opposed by the Administration and, therefore, may "sneak through" Congress without the full consideration which it deserves.

Moreover, and of critical significance to the economic interests of the United States, is the fact that many stuffed toys and dolls produced by Eden and other companies, utilize American made textile materials exported to the Caribbean and Far East and are imported pursuant to item 807.00 of the tariff schedules (with duty assessed solely on the foreign assembly costs). In fact, of the $18 million of stuffed dolls imported into the United States in 1981, $4.6 million were constucted from American made material exported for assembly.

Passage of H.R. 5764 will place those companies importing products pursuant to item 807.00 at a tremendous competitive disadvantage vis a vis imports of complete stuffed toys from the more advanced developing countries of Taiwan and Korea. It also will reduce the incentive for manufacturers to utilize American made, as distinguished from foreign made, material in stuffed doll production, thereby reducing employment in our textile industry. And since duty free entry will be available for stuffed toys and dolls regardless of the amount of local content attributable to the developing countries where these stuffed dolls and toys are produced, H.R. 5764 will not result in increased employment opportunities for people living in the world's poorer nations.

Finally, you should be aware of the fact, contrary to Knickerbocker's statement to the Subcommittee on Trade, that there appear to be a considerable number of American workers employed in the production of stuffed dolls and toys. Attached to this statement is an April 1978 study regarding employment in the New York toy and doll industry. While these figures are admittedly not up-to-date, we feel that the burden of establishing the complete lack of domestic competition rests on the proponents of H.R. 5764. In any event, passage of this bill would definitely have a direct adverse impact on Eden Toys and the 200 persons we employ in our domestic production facilities.

It is Eden's belief that the reasons set forth above—coupled with the obvious fact that passage of this measure will result in a loss of revenue to the U.S. government at a time when projected budget deficits are clearly excessive—present sufficient reason why H.R. 5764 should not be enacted into law.

However, a close examination of this bill reveals additional reasons why its passage is contrary to basic principles of U.S. law and policy.

In its present form H.R. 5764 represents a private bill that will unquestionably injure small firms in the U.S. stuffed toy industry. Many of Eden's imported stuffed toys contain spring wound musical movements, thereby precluding classification as stuffed toy figures in item 737.30 of the tariff schedules, while other stuffed toys imported by our company are valued not over 10 cents per inch in height and, therefore, are classifiable in item 737.28. These toys are clearly competitive with those figures subject to H.R. 5764. However, H.R. 5764 does not propose to eliminate the current import duty on stuffed toy figures of animate objects valued not over 10 cents per inch in height, currently classified in item 737.28 of the tariff schedules; H.R. 5764 does not propose to eliminate the import duty on toy figures of animate objects (including stuffed toys) with spring mechanisms, currently classified in items 737.45 and 737.50 of the tariff schedules. Thus, as currently written, H.R. 5764 enhances the competitive position of Knickerbocker Toy Company vis a vis Eden, and many other smaller companies which do not have the resources to have their own private bills introduced in Congress.

Perhaps the clearest example of the blatant self-interest of this proposed legislation involves the proposal to create an entirely new class of merchandise—"toy figures of inanimate objects"—and to eliminate the duty on these articles when they are "stuffed or filled." The definition of the term "inanimate objects" as set forth in the proposed legislation appears to exclude many directly competitive stuffed toys currently imported by Eden and other companies. It presumably includes those inanimate figures currently imported, or to be imported, by Knickerbocker. In any event, the inclusion of the proposed provision in H.R. 5764 will create artificial tariff categories and administrative problems in an area where it is in the best interest of all parties to create greater consistency and fewer unnecessary tariff distinctions.

For all of the reasons discussed in this letter, it is respectfully requested that your committee recommend that H.R. 5764 not be passed. This bill is contrary to basic U.S. trade policy. It favors one substantial importer at the expense of many smaller companies, thereby harming competitive conditions in the U.S. stuffed toy and doll industry. It will have an adverse impact on the current level of employment in the domestic toy and doll industry and will eliminate the possibility that any additional firms would decide to produce these articles in the U.S. in the future. There is no evidence that it will benefit the American consumer.

In short, H.R. 5764 is contrary to the economic interests of the United States and the public policy that the Government should treat all competitive companies on the same basis. It should not be enacted into law.

Very truly yours,

DAVID A. MILLER.

Enclosures.

Hugh L. Carey
Governor

Philip Ross
Industrial Commissioner

Murray Dorkin
Director

STATE OF NEW YORK
DEPARTMENT OF LABOR
DIVISION OF RESEARCH AND STATISTICS
TWO WORLD TRADE CENTER
NEW YORK, N. Y. 10047

Email [illegible] 4/11

Wage Bulletin No. 280

EARNINGS AND HOURS IN TOY AND GAME MANUFACTURE
New York City, April 1978

This bulletin presents the findings of a wage survey among firms that manufacture toys and games in New York City. The survey, which was conducted by mail, was made to obtain information needed in the administration of the Unemployment Insurance Law. The findings are published in this bulletin as a service to firms which furnished information for the survey. Only totals and averages are shown; all data for individual firms are kept strictly confidential.

The data presented in this bulletin are based on reports from a sample of establishments classified in accordance with the 1972 edition of the Standard Industrial Classification Manual (SIC). The sample included firms in the following industries: Dolls (SIC 3942); and Games, toys and children's vehicles: except dolls and bicycles (SIC 3944).

The sample was selected, by size of firm and industry, from among those establishments with four or more employees covered by the Unemployment Insurance Law during the first quarter of 1976. Most participants responded to mail questionnaires; a small number were contacted by telephone and personal visit. The data received were weighted to maintain proportionate representation by size of firm and industry, among the groups from which the sample was selected. The number of firms and employees in the industries surveyed and the number studied are shown in Table 1.

Information on straight-time earnings is presented for 16 occupations. The complete straight-time earnings distribution for workers in these occupations is shown in Table 2. Cutter, hand was the most highly paid occupation. Average (mean) straight-time earnings for the group was $4.80 per hour. Trimmer received the lowest average (mean) straight-time earnings, $2.84 per hour. (See Chart 1 for occupational wage comparisons.) Summary statistics of earnings for the 16 occupations are shown in Table 3.

A 40-hour week was worked by 71 percent of the employees in the 16 occupations. A majority of the employees in each occupation worked a 40-hour week. (See Table 4 for occupational details.)

A contract with one or more unions was reported by 77 percent of the firms in the study. Employees in these firms accounted for 91 percent of the total employment in the study. (See Table 4 for occupational comparisons.)

Table 1. Establishments and Employees in the Industries Surveyed and the Number Studied
Toy and Game Manufacture, New York City, April 1978

Industry	SIC code	Establishments a/		Employment a/	
		In scope of study	Studied	In scope of study	Studied
Total		150	85	6,932	5,066
Dolls	3942	96	51	2,961	1,751
Games, toys and children's vehicles, except dolls and bicycles	3944	54	34	3,971	3,315

a/ Data are derived from the first quarter of 1976 reports of establishments with 4 or more employees covered by the Unemployment Insurance Law.

Chart 1. Average Straight-Time Hourly Earnings of Full-Time Workers in Selected Occupations
Toy and Game Manufacture, New York City, April 1978

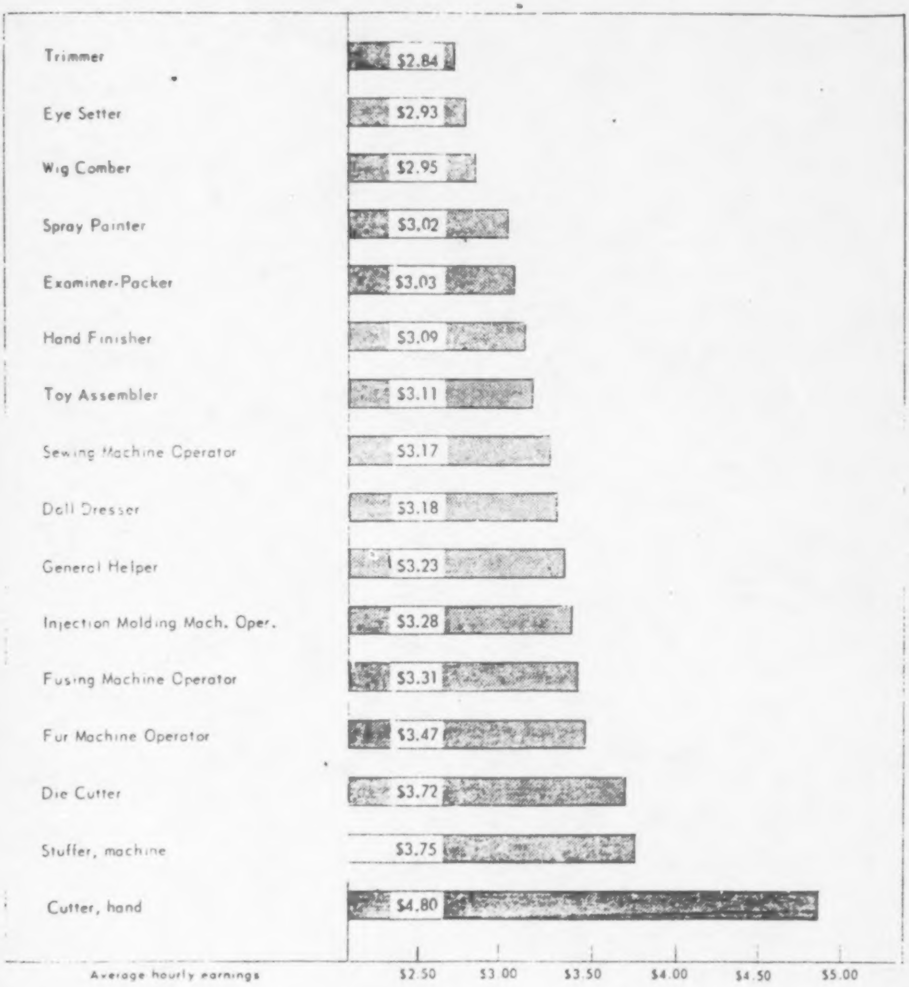


Table 2. Straight-Time Hourly Earnings of Full-Time Workers in Selected Occupations, Toy and Game Manufacture
New York City, April 1978

Occupation	Total a/	Number of full-time workers b/ receiving straight-time earnings c/: Under $2.40	$2.40 and under 2.50	2.50 - 2.60	2.60 - 2.70	2.70 - 2.80	2.80 - 2.90	2.90 - 3.00	3.00 - 3.10	3.10 - 3.20	3.20 - 3.30	3.30 - 3.40	3.40 - 3.50	3.50 - 3.60	3.60 - 3.70	3.70 - 3.80	3.80 - 3.90	3.90 - 4.00	4.00 - 4.20	4.20 - 4.40	4.40 - 4.60	4.60 - 4.80	4.80 - 5.00	5.00 - 5.20	5.20 - 5.40	$5.40 and over
Cutter, hand	40	-	-	-	-	2	-	-	-	2	2	-	-	-	2	-	-	4	6	1	4	1	4	2	2	8 d/
Die Cutter	37	-	-	-	4	-	6	2	-	4	1	1	2	-	2	-	2	-	1	2	-	-	2	4	4	-
Doll Dresser	179	-	-	-	23	4	6	-	3	7	110	11	6	2	1	-	4	-	-	-	-	-	-	2	-	-
Examiner-Packer	243	-	-	-	69	39	17	16	15	14	6	5	5	1	17	1	-	1	14	4	2	-	-	-	-	2
Eye Setter	36	-	-	-	10	7	5	4	-	4	-	1	2	1	2	-	-	-	-	-	-	-	-	-	-	-
Fur Machine Operator	180	-	-	-	22	12	6	2	6	16	10	6	24	6	8	10	10	8	6	10	4	-	-	-	4	2
Fusing Machine Operator	40	-	-	-	-	2	-	-	3	-	2	11	-	2	-	-	-	-	-	-	-	-	-	-	-	-
General Helper	748	-	-	-	157	61	51	23	35	80	51	33	44	37	12	39	45	31	19	10	11	-	4	3	2	2
Hand Finisher	39	-	-	-	11	6	2	-	4	4	4	4	-	2	-	-	-	-	-	-	-	-	-	-	-	2
Injection Molding Mach. Oper.	277	-	-	-	16	12	14	14	8	4	2	189	-	6	-	-	2	2	5	-	-	-	-	-	2	-
Sewing Machine Operator	399	1	-	-	51	16	53	31	34	27	65	19	21	15	15	20	4	9	5	6	3	2	-	2	-	-
Spray Painter	104	-	-	-	32	19	20	3	4	3	3	2	-	2	-	2	1	-	7	4	2	-	-	-	-	-
Stuffer, machine	52	-	-	-	2	2	-	-	1	4	2	2	1	4	2	-	2	1	5	4	6	-	-	-	-	2
Toy Assembler	862	2	-	-	125	106	97	144	33	28	33	142	17	21	23	19	14	13	12	25	5	3	-	-	-	-
Trimmer	64	-	-	-	15	21	16	-	-	8	1	-	2	-	1	-	-	-	-	-	-	-	-	-	-	-
Wig Comber	81	-	-	-	29	1	23	2	1	13	3	-	1	1	1	1	-	4	-	1		-	-	-	-	-

a/ Estimated - weighted to maintain proportionate representation by size of firm and industry.
b/ For purposes of this survey, a full-time workweek was considered to consist of 30 or more hours.
c/ Excludes shift differentials, overtime premiums, holiday pay and the value of perquisites.
d/ Workers were distributed as follows: 2 at $6.00 to $6.20, 1 at $6.20 to $6.40, 1 at $6.80 to $7.00, 2 at $8.20 to $8.40, and 2 at $8.60 to $8.80.

Table 3. Summary Hourly Earnings of Full-Time Workers in Selected Occupations
Toy and Game Manufacture, New York City, April 1978

Occupation	Number of workers a/	Wage summary of straight-time hourly earnings b/					
		Entire range				Middle 50% c/	
		Low	High	Median d/	Mean e/	Low	High
Cutter, hand	40	$2.75	$8.61	$4.46	$4.80	$3.96	$5.13
Die Cutter	39	2.65	5.36	3.37	3.72	2.96	4.25
Doll Dresser	178	2.65	5.01	3.26	3.18	3.11	3.26
Examiner-Packer	243	2.65	5.63	2.83	3.03	2.65	3.13
Eye Setter	36	2.65	3.66	2.82	2.93	2.65	3.18
Fur Machine Operator	180	2.65	6.75	3.41	3.47	3.05	3.83
Fusing Machine Operator	40	2.75	3.50	3.37	3.31	3.37	3.37
General Helper	746	2.60	5.41	3.15	3.23	2.75	3.55
Hand Finisher	39	2.65	5.51	3.00	3.09	2.65	3.21
Injection Molding Mach. Oper.	277	2.65	5.23	3.37	3.28	3.27	3.37
Sewing Machine Operator	399	2.31	5.17	3.13	3.17	2.85	3.38
Spray Painter	104	2.65	4.40	2.80	3.02	2.65	3.06
Stuffer, machine	52	2.65	6.45	3.58	3.75	3.25	4.03
Toy Assembler	869	2.30	4.76	2.95	3.11	2.77	3.34
Trimmer	64	2.60	3.67	2.76	2.84	2.72	2.86
Wig Comber	81	2.65	4.33	2.83	2.95	2.65	3.16

a/ Estimated - weighted to maintain proportionate representation by size of firm and industry.

b/ Excludes shift differentials, overtime premiums, holiday pay and the value of perquisites.

c/ The middle 50% is defined by two rates of pay, a fourth of the workers earn the lower of these rates or less and a fourth earn the higher of these rates or more.

d/ The median designates position, that is, half of the employees surveyed receive the rate shown or more and half received the rate shown or less.

e/ The mean for each occupation is computed by multiplying each rate by the number of employees receiving the rate. The products are totaled and divided by the total number of employees in the occupation.

Table 4. Unionization and Hours Worked by Full-Time Workers in Selected Occupations
Toy and Game Manufacture, New York City, April 1978

Occupation	No. of wkrs. a/	Percent of full-time workers b/									
		Total	Union	Non-union	Hours worked						
					Total	30	35	37½	40	48	All other
Cutter, hand	40	100	78	22	100	5	–	–	55	–	40
Die Cutter	39	100	79	21	100	5	–	–	72	–	23
Doll Dresser	178	100	93	7	100	1	–	–	86	–	13
Examiner-Packer	243	100	79	21	100	7	c/	c/	67	–	26
Eye Setter	36	100	83	17	100	17	–	3	52	–	28
Fur Machine Operator	180	100	58	42	100	–	–	–	63	–	37
Fusing Machine Operator	40	100	100	0	100	–	–	3	97	–	–
General Helper	746	100	78	22	100	4	1	c/	68	–	27
Hand Finisher	39	100	51	49	100	–	–	–	64	–	36
Injection Molding Mach. Oper.	277	100	94	6	100	–	–	–	93	–	7
Sewing Machine Operator	399	100	74	26	100	8	1	2	55	–	34
Spray Painter	104	100	62	38	100	13	1	–	69	–	17
Stuffer, machine	52	100	77	23	100	8	–	–	57	–	35
Toy Assembler	869	100	89	11	100	2	c/	1	80	–	17
Trimmer	64	100	81	19	100	6	2	–	51	–	41
Wig Comber	81	100	100	0	100	4	1	1	50	–	44

a/ Estimated - weighted to maintain proportionate representation by size of firm and industry.

b/ For purposes of this survey, a full-time workweek was considered to consist of 30 or more hours.

c/ The unrounded data comprises less than one-half of one percent.

JOB DESCRIPTIONS - TOY and GAME MANUFACTURE

Cutter, hand. Cuts toy-garment parts and other articles to be sewed together, from single or multiple layers of material, using knife or shears. Follows outline marked on cloth or outlines of patterns usually placed by others.

Die Cutter. Operates a die-cutting machine to cut or stamp small pieces of various shapes from knitted material, cloth, cardboard, or other light materials. Feeds material under ram so as to obtain largest number of cuts of material.

Doll Dresser. Performs a variety of hand-sewing operations on stuffed dolls and toys, such as closing dolls or toys after stuffing, attaching legs, arms, and heads onto the bodies of stuffed dolls, finishing dolls' clothing. May embroider simple features on dolls' faces.

Examiner-Packer. Inspects completed articles to make certain that they conform to shop standards of quality. Segregates defective items and may mark them. Places inspected articles in a box, carton, or plastic bag.

Eye Setter. Sets or glues eyes into sockets of plastic doll heads or of stuffed toys.

Fur Machine Operator. Stitches together parts of pelts or fur-like material to produce completed stuffed toys.

Fusing Machine Operator (Heat Sealer). Seals edges of plastic cloth or parts of toys in fusing press. Positions edges of cloth or toy parts in contact plate and manipulates controls to regulate press.

General Helper. May do any or all of the following: assist other workers by performing the more simple flanging, punching, shaping, or soldering operations. do some simple assembly work, pack completed articles; help load and unload trucks; sweep floors; clean and oil machines; distribute material to workers, collects completed articles, sort and bundle component parts of articles. Pair and match parts.

Hand Finisher. Glues or otherwise fasten previously fabricated heads of dolls, dogs, etc., onto cloth bodies; and clothes them in handkerchiefs and other materials.

Injection Molding Machine Operator. Operates injection molding machines to cast products of plastic material. May mix plastic materials and coloring pigments in mixing machine, according to formula.

Sewing Machine Operator. Operates a sewing machine to perform any or all sewing operations on fabrics or other materials.

Spray Painter. Uses a spray gun to coat surfaces with finishing or protecting material such as enamel, lacquer, paint, porcelain glaze, stain, or waterproofing.

Stuffer, machine. Stuffs partially sewn dolls and toys with cotton, excelsior, or other material to give them shape.

Toy Assembler. Assembles parts of toys, such as toy wagons and toy automobiles, by hand. May assemble entire toy or may assemble only part of toy and then pass it to another worker who continues the assembling.

Trimmer. Pulls basting stitches from doll clothing, cuts off thread ends, and sponges spots. Folds clothing before packing.

Wig Comber. Uses a hand comb to arrange and beautify dolls' wigs. May use a curling iron to curl dolls' wigs.

Telegram

THE HONORABLE CONGRESSMAN SAM M GIBBONS
CHAIRMAN, ~~TRADES~~ SUBCOMMITTEE ON TRADE,
HOUSE WAYS AND MEANS COMMITTEE,
CAPITOL ONE DC

MAY 28 1982

DEAR HONORABLE CONGRESSMAN GIBBONS:

CONGRESSMAN GUARINI HAS SUBMITTED A BILL WITH AMENDMENT HR5764 WHICH DEALS WITH MAKING CERTAIN TSUS CATEGORY IN THE TOY FIELD DUTY FREE.

WE AT HASBRO INDUSTRIES OPPOSE THIS. HASBRO IS A RHODE ISLAND BASED COMPANY MANUFACTURING TOYS. WE EMPLOY APPROXIMATELY 1,250 PEOPLE.

WE OPPOSE THIS BILL AS IT IS SELFISH AND ADDRESSES ITSELF TO ONLY ONE SIDE OF THE TOY INDUSTRY. ALL TOYS ARE COMPETITIVE WITH ONE ANOTHER AND IF THE CONSUMER BUYS "X" HE CANNOT AFFORD TO BLY "Y".

THE BILL ADDRESSES ITSELF TO ONLY ONE ASPECT OF OUR INDUSTRY AND THEREFORE COULD CONCEIVABLY CREATE AN UNFAIR ADVANTAGE TO THOSE IN THAT SECTOR OF OUR BUSINESS WHICH, IN TURN, COULD CREATE A SIGNIFICANT LOSS OF JOBS IN OTHER SECTORS OF THE INDUSTRY.

MANY OF US AS IMPORTERS HAVE ALWAYS HAD TO PAY DUTIES. DUE TO THE "TOKYO ROUND" OUR RATES HAVE BEEN SUBSTANTIALLY REDUCED. DUTY RATES ARE NOT HARDSHIP AND THEY HAVE HELPED BALANCE SOME OF OUR BALANCE OF PAYMENTS. AS AN AMERICAN, I IMPLORE YOU TO MAKE UP YOUR MIND-STOP ON AN AD HOC WILLY NILLY MANNER, RULING ON INDIVIDUAL ISSUES. THIS RESOLUTION IS SO SELF-CENTERED TO A FEW COMPANIES AND DOES NOT EVEN BEG THE QUESTION OF RECIPROCITY.

I HOPE YOU ARE AWARE THAT OUR ADMINISTRATION APPROVED LEGISLATION TO HELP THE CARIBBEAN BASIN JUST RECENTLY-THIS WILL ADVERSELY IMPACT SUCH LEGISLATION.

LASTLY, PLEASE UNDERSTAND YOU WILL OPEN THE FLOOD GATE TO FALLEN COMPETITION. NO ONE IS BEING HURT ECONOMICALLY BY LEAVING THINGS AS THEY ARE. HOWEVER, BY CHANGING AND ADAPTING THIS BILL JOBS WILL BE LOST, OUR BALANCE OF TRADE WILL FIND FURTHER DEFICIT AND MOST IMPORTANTLY, YOU YOURSELF HAVE BLESSED IMPORTS OVER FURTHER INVESTMENTS IN OUR OWN FIRMS IN THE U.S.

PRIOR TO ADOPTION, I IMPLORE YOU TO DO DUE DILIGENCE.

THANK YOU FOR HEARING ME.

WARMEST REGARDS,
ALAN G HASSENFELD
EXECUTIVE VICE PRESIDENT
HASGROVE INDUSTRIES, INC
1027 NEWPORT AVE

IDEAL TOY CORP.,
Hollis, N.Y., June 3, 1982.

Hon. DANIEL ROSTENKOWSKI,
Subcommittee on Trade, House Committee on Ways and Means, U.S. House of Representatives, Washington, D.C. 20515

HONORABLE SIR: We wish to go on record as objecting to H.R. 5764 (the Guarini Bill) to eliminate unconditionally duty on stuffed dolls and toy figures, doll clothing, skins for stuffed dolls and toys, and certain other toy figures from whatever source. We believe this bill is a selfish attempt on the part of one importer or a small group of importers to tailor legislation to their own competitive advantage. It flies in the face of the avowed purpose behind the adoption of the Generalized System of Preferences (GSP) which was intended to stimulate trade with under-developed countries. The adoption of this bill would certainly negate the possibility of a company such as ours even considering the development of a domestic industry in certain facets of the stuffed doll and toy field which could be competitive. We further feel this proposed legislation is completely at variance with the President's announced policy of stimulating trade in the Caribbean area, as opposed to offering incentives to the more developed facilities of the Orient, including Hong Kong, Taiwan and Korea.

For all the foregoing reasons, we strongly urge the Subcommittee on Trade of the House Ways and Means Committee to oppose and reject this legislation as not being in the best interests of the American toy industry and of our country.

Very truly yours,

LIONEL A. WEINTRAUB,
Chairman & Chief Executive Officer.

H.R. 5786

To apply duty-free treatment to athletic footwear imported for the use of organizations established for purposes of organizing, sponsoring, or providing training for athletic competition for physically or mentally handicapped individuals

U.S. INTERNATIONAL TRADE COMMISSION

Purpose of the legislation

H.R. 5786, if enacted, would provide duty-free treatment on athletic footwear imported for the use of any public or private nonprofit organization organizing, sponsoring, or providing training for athletic competition for physically or mentally handicapped individuals. A new item would be added to part 4 of schedule 8 of the Tariff Schedules of the United States (TSUS) to provide duty-free entry to such shoes when imported from any nation. The main objective appears to be to allow manufacturers of athletic shoes to import shoes duty-free to be donated to the handicapped who are training and competing in Special Olympics programs.

Description and uses

Athletic footwear is defined in statistical headnote 1(a), subpart A, part 1 of schedule 7 of the Tariff Schedules of the United States Annotated (TSUSA) as "footwear of special construction for baseball, football, soccer, track, skating, skiing, and other athletic games, or sports". Although the term "athletic footwear" appears only in statistical annotations to the nonrubber (i.e., primarily leather and vinyl) footwear provisions of the TSUSA, athletic footwear also enters under provisions for rubber footwear, i.e., footwear having uppers of fabric and soles of rubber or plastics. Such footwear includes joggers and sneakers, which are general purpose shoes but are also worn for competition in track and field, tennis and other sports.

Tariff treatment

Athletic footwear is currently dutiable in the TSUS as follows:

TSUS item No.	Brief description (abridged)	Rate of duty	
		Col. 1 1/ 2/	Col. 2 3/
	Of leather (non-fiber uppers):		
	Welt footwear:		
	Valued over $6.80 per pair:		
700.28	Ski boots	Free	20% ad val.
700.29 (pt.)	Other athletic footwear	5% ad val.	20% ad val.
	Other (of leather):		
700.35 (pt.)	For men, youths, and boys	8.5% ad val.	20% ad val.
	For other persons:		
700.43 (pt.)	Valued not over $2.50 per pair	15% ad val.	20% ad val.
700.45 (pt.)	Valued over $2.50 per pair	10% ad val.	20% ad val.
700.56 (pt.)	Having uppers of which over 90 percent of the exterior surface area is rubber or plastics	6% ad val.	35% ad val.
700.61	Valued not over $6.50 per pair	37.5% ad val.	66% ad val.
700.62	Valued over $6.50 but not over $12 per pair	90¢ per pr. + 20% ad val.	$1.58 per pr. + 35% ad val.
700.63	Valued over $12 per pair	20% ad val.	35% ad val.
	Other:		
700.64	Valued not over $3 per pair	48% ad val.	84% ad val.
700.67	Valued over $3 but not over $6.50 per pair	90¢ per pr. + 37.5% ad val.	$1.58 per pr. 66% ad val.
700.69	Valued over $6.50 but not over $12 per pair	90¢ per pr. + 20% ad val.	$1.58 per pr. 35% ad val.
700.71	Valued over $12 per pair	20% ad val.	35% ad val.

1/ Effective Jan. 1, 1982. These rates were not reduced in the Tokyo round of the Multilateral Trade Negotiations, conducted under the General Agreement on Tariffs and Trade during 1973-79.

2/ The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries since they are granted preferential tariff treatment under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

3/ The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

Because of its identification as an import-sensitive article, athletic footwear is not eligible for preferential treatment under the Generalized System of Preferences. [1]

Structure of the domestic industry

The production of footwear, including athletic footwear, is divided into the rubber and the nonrubber footwear industries. However, the distinction between these two industries has become less clear over the years as producers in both industries now use both rubber and nonrubber materials to manufacture footwear.

Although there are approximately 75 companies that manufacture athletic footwear, the bulk of production is concentrated in about 12 firms. Many of these firms are also major importers of athletic footwear. Four companies which account for approximately 60 percent of domestic sales are--

Nike Shoe Company
Beaverton, Oregon

Converse Rubber Company
Lumberton, North Carolina

Adidas
Kutztown, Pennsylvania

Stride Rite Mfg. Company
Boston, Massachusetts

Other major U.S. producers of athletic footwear are--

Bata Shoe Company, Inc.
Belcamp, Maryland

New Balance Athletic Shoes
Boston, Massachusetts

Etonic, Inc.
Auburn, Maine

Hyde-Spotbilt Athletic
Footwear
Cambridge, Massachusetts

Wolverine World Wide, Inc.
(formerly Brooks Shoe Mfg. Co., Inc.)
Rockford, Maine

Charles A. Eaton Company
Brockton, Massachusetts

Brookfield Athletic Shoe Co.
Brookfield, Massachusetts

Van Doren Rubber Co., Inc.
Anaheim, California

---

[1] The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985.

Domestic shipments

Domestic shipments of athletic footwear increased from 20.9 million pairs in 1978 to 25.8 million pairs in 1981, or by 24 percent (table 1). The value increased from $156.7 million in 1978 to $245.9 million in 1980, the latest year for which information is available. The increased shipments of athletic footwear are largely attributed to the growth in leisure activities and physical fitness.

U.S. imports

Nonrubber athletic footwear.--Imports of nonrubber athletic footwear increased from 43.7 million pairs, valued at $316.6 million, in 1978 to 57.3 million pairs, valued at $459.4 million, in 1981.

Approximately 80 percent (based on quantity) of the imports in 1981 originated in Korea and Taiwan; [1] Korea alone accounted for 58 percent of the total (table 2). Imports from countries subject to column 2 rates of duty have been nil. [2]

During 1978-81, the market penetration of U.S. imports of nonrubber athletic footwear averaged about 70 percent (table 1). Although imports have had a relatively large share of the U.S. market, data available to the Commission on the financial performance of U.S. producers with substantial athletic footwear production indicated that profits of these producers were higher than that of the overall footwear industry during 1979 and 1980.

Canvas/rubber footwear.--Although separate data are not available, a substantial number of imports of athletic footwear enter under TSUS items 700.61 to 700.71 (convas/rubber footwear).

---

[1] U.S. imports of nonrubber athletic footwear from Taiwan and Korea were subject to a 4-year Orderly Marketing Agreement (OMA), which expired on June 30, 1981.

[2] Communist-dominated countries other than Hungary, China, Poland, Romania, and Yugoslavia.

Imports of all canvas/rubber footwear reached a peak in 1978 at 172.7 million pairs (table 3). Imports, however, declined to 111.4 million pairs in 1979, but increased to 137.6 million pairs in 1981. Taiwan and Korea were the major foreign suppliers, accounting for approximately 80 percent of the total in 1981. The imports from Taiwan under this category included a significant amount of slippers and casual footwear, probably as much as half the total; the remainder comprised athletic-type footwear. The imports from Korea consisted almost entirely of athletic footwear. Nike Shoe Company is a major importer of these shoes.

U.S. exports

U.S. exports of athletic footwear increased from 1.3 million pairs ($13.3 million) in 1978 to 4.0 million pairs ($33.5 million) in 1980, then declined to 2.4 million pairs ($28.8 million) in 1981 (table 1). The major export market in 1980 was Argentina, which received inexpensive, mass-produced athletic footwear, primarily from one domestic manufacturer. U.S. shipments to Argentina in 1980 totaled approximately 2 million pairs; in 1981; shipments to Argentina amounted to only 119,000 pairs. The decline in U.S. shipments to Argentina in 1981 is attributable primarily to the Argentine government's reimposition of import restrictions on athletic footwear. Japan and Canada were the principal markets in 1981, accounting together for 32 percent of the total.

Apparent U.S. consumption

Apparent U.S. consumption of athletic footwear increased 28 percent betweem 1978 and 1981, from 63.3 million pairs to 80.9 million pairs.

Potential annual loss of revenue

Data are not available to estimate the likely effect that enactment of the bill would have on annual customs revenues. However, according to information received from the Special Olympics, Inc., Nike Shoe Company of Beaverton, Oregon, has arranged for the donation of shoes each year for distribution to needy participants in the Special Olympics program. It was indicated that such shoes were generally "seconds", not meeting Nike's quality standards, and would have not otherwise been retailed under the Nike brand name.

Technical comments

Since the athletic footwear which is the subject of this legislation is not specially designed for handicapped persons and since the importer of the subject footwear is more likely to be a shoe company rather than a non-profit organization, the U.S. Customs Service may have a difficult burden in administering this provision. Like other "actual use" provisions, it will require Customs to trace the article into consumption in order to verify its ultimate use.

Table 1.—Athletic footwear: Domestic producers' shipments, imports, and apparent consumption, 1978-81

Year	Producers' shipments 1/	Exports	Imports 2/	Apparent consumption	Ratio (percent) of imports to consumption
	Quantity (1,000 pairs)				
1978	20,887	1,283	43,711	63,315	69
1979	21,073	2,390	40,366	59,049	69
1980	24,471	3,979	53,571	74,063	73
1981	25,828	2,192	57,295	80,931	71
	Value (1,000 dollars)				
1978	156,708	13,293	335,025	478,440	70
1979	184,973	22,073	348,170	511,070	69
1980	245,904	33,528	468,245	680,621	69
1981	3/	28,759	481,374	3/	3/
	Unit Value (dollars)				
1978	7.50	10.36	7.66	7.56	-
1979	8.78	9.24	8.63	8.66	-
1980	10.05	8.43	8.74	9.19	-
1981	3/	13.12	8.40	3/	-

1/ Athletic footwear as defined in Standard Industrial Colassification (SIC) 314.

2/ Includes only nonrubber athletic footwear.

3/ Not available.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 2.—U.S. imports for consumption of nonrubber athletic footwear, by principal sources, 1978-81

Country	1978	1979	1980	1981
	Quantity (1,000 pairs)			
Korea	19,157	15,947	28,929	32,812
Taiwan	11,308	11,072	12,680	12,804
France	3,203	2,078	2,102	2,368
Italy	1,733	2,242	1,733	1,322
Yugoslavia	2,748	1,881	2,900	1,915
All other	5,562	7,146	5,317	6,074
Total	43,711	40,366	53,571	57,295
	Value (1,000 dollars)			
Korea	102,746	102,075	198,282	226,565
Taiwan	48,867	63,027	82,942	86,835
France	36,923	30,343	34,126	39,916
Italy	40,491	54,973	43,462	29,165
Yugoslavia	34,606	25,304	40,255	25,844
All other	52,998	55,289	47,590	51,100
Total	316,631	331,011	446,657	459,425

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 3.--U.S. imports for consumption of footwear having uppers of fabrics and soles of rubber or plastics, by principal sources, 1978-81

Country	1978	1979	1980	1981
	Quantity (1,000 pairs)			
Taiwan	94,770	53,876	58,993	61,829
Korea	59,470	41,856	42,600	45,901
China	2,860	6,416	8,568	11,964
Italy	3,050	2,169	2,091	3,589
All other	12,556	7,075	8,549	14,349
Total	172,706	111,392	120,801	137,632
	Value (1,000 dollars)			
Taiwan	250,331	172,122	269,079	275,281
Korea	265,699	223,071	250,020	273,998
China	3,735	14,780	15,554	21,582
Italy	21,831	14,238	14,548	20,968
All other	69,312	40,939	43,339	48,697
Total	610,908	465,150	592,540	640,526

Source: Compiled from official statistics of the U.S. Department of Commerce.

STATEMENT OF HON. LES AUCOIN AND HON. RON WYDEN, REPRESENTATIVES IN CONGRESS FROM THE STATE OF OREGON

Mr. CHAIRMAN: Across the country there are millions of mentally and physically handicapped youths who face difficulties which are incomprehensible to most of us. Day in and day out, their handicaps separate them from some of life's most rewarding opportunities. In many cases, this simply need not be. For, with a little qualified help, with proper equipment—and with our care—the handicapped can overcome these barriers and participate, even in vigorous athletic competition.

We have introduced H.R. 5786 as a step toward lowering those barriers. H.R. 5786 proposes a modification of tariff laws to allow duty-free importation of athletic shoes on the condition that the manufacturer donates the shoes to organizations that train and organize handicapped athletes for special competition.

The bill is especially designed to help equip handicapped athletes who would like to participate in the Special Olympics, an organization of 400,000 volunteers who put on 19,000 athletic events around the country.

There are those within the domestic shoe industry who feel that this bill will cost them a significant portion of their market. Mr. Chairman, that's an erroneous assumption. These shoes are to be donated to individuals who cannot afford them and, consequently, can not participate in competition. Furthermore, I want it to be clear that while these shoes are structurally sound and fit for use, they are not saleable on the retail market because they are cosmetically blemished.

The administration, which has repeatedly encouraged corporate volunteerism, has also raised some objections. It complains that this bill established a precedent that would endanger tariff revenues. To this, we answer: To encourage corporate America's volunteerism we must provide an incentive. In our estimation, this bill, which would cost the Treasury $175,000 per year, is an effective way of encouraging corporate participation to the benefit of the less fortunate people of our nation.

We believe H.R. 5786 creates incentive for industry to provide shoes to the 100,000 mentally handicapped athletes who would like to participate annually in the Special Olympics and other similar organizations in the country. To us, this far outweighs the very minimal costs of the bill and may in fact encourage domestic industry to also engage in this form of charitable contribution.

UNIVERSAL INDUSTRIES, INC.,
New Bedford, Mass., June 2, 1982.

JOHN J. SALMON, Esq.,
Chief Counsel, Committee on Ways and Means,
U.S. House of Representatives, Washington, D.C. 20515

DEAR MR. SALMON: I have just learned of the Ways and Means Committee press release of May 13 announcing hearings, and the opportunity to submit written statements, on certain tariffs and trade bills.

This company is an importer of headwear and handwear (gloves and mittens). Through the years we have made gifts of our products to many charitable organizations and we hope to be able to continue doing so. It is for this reason that we are interested in H.R. 5786, which would "Apply duty-free treatment to athletic footwear imported for the use of organizations established for purposes of organizing, sponsoring, or providing training for athletic competition for physically or mentally handicapped individuals."

We support the purposes of this bill but urge that it be amended to include items such as headwear and handwear (all gloves and mittens) instead of being limited to athletic footwear. If the bill cannot be amended at this time, and if it passes, we hope that the Committee will look favorably on the introduction of a similar bill which would do for imported apparel what this bill does for imported athletic footwear.

Sincerely,

ALVIN H. SHWARTZ,
Executive Vice President and Treasurer.

H.R. 5790

To provide for the temporary duty-free treatment of imported fresh cantaloups during limited periods in each year, and for other purposes

U.S. INTERNATIONAL TRADE COMMISSION

Purpose of the legislation

The purpose of H.R. 5790 is to provide duty-free entry for cantaloupes from column 1 1/ countries from January 1 to May 15 in the years 1983 through 1985. The rate currently assessed during that period is 35 percent ad valorem. Column 1 rates would apply during the remainder of each year; the legislation would not affect the column 2 2/ rate of 35 percent ad valorem. It appears that the intended purpose of the bill is to make imports of fresh cantaloupes duty free during the period when there is little or no domestic production of fresh cantaloupes.

Description and uses

There are about half-a-dozen different botanical varieties of muskmelons, with numerous subtypes, that range widely in shape, size, and appearance and that will hybridize readily with each other. The variety of melon most commonly produced in the United States is the cantaloupe. The cantaloupe is a melon grown on an annual trailing vine in temperate climates. It is round to oval in shape, is usually 5 or 6 inches in diameter and has a salmon-

---

1/ The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries since they are granted preferential tariff treatment under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

2/ The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

orange colored flesh; the skin is overlain with a heavy, sandy tan-colored surface netting.

Cantaloupes are generally used fresh as an appetizer, salad, or fruit dessert. Fresh cantaloupes are nonstorable and generally maintain their quality for only several weeks after harvest. This characteristic makes the marketing of cantaloupes seasonal.

Tariff treatment

Imported cantaloupes are classified for tariff purposes under TSUS item 148.10 if entered during the period from August 1 through September 15 in any year, under item 148.12 if entered from December 1 through March 31, and under item 148.17 if entered at any other time. The column 1 rate of duty applicable to imports entered during the period August 1-September 15 (item 148.10) is 20 percent ad valorem. That rate reflects a concession granted by the United States in the General Agreement on Tariffs and Trade, effective June 6, 1951. Imports classified in items 148.12 and 148.17 are dutiable at the rate of 35 percent ad valorem in both columns 1 and 2. Imported cantaloupes classified in these two items are eligible for duty-free treatment under the Generalized System of Preferences (GSP) 1/ if imported from designated GSP beneficiary countries; however, imports from Mexico are not eligible for GSP treatment due to the so-called "competitive need" criteria and are dutiable at the 35 percent ad valorem rate. The column 2 rate of duty for item 148.10 is also 35 percent ad valorem.

1/ The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985.

The proposed duty suspension would include part of the time period of item 148.12 and part of the period of item 148.17. It would be implemented by adding a new item, 903.65, to subpart B of part 1 of the Appendix to the TSUS.

Structure of the domestic industry

Cantaloupes require a long growing season and are susceptible to a number of diseases that effectively limit the areas where they can be grown. Cantaloupes are produced commercially in at least 25 States, but more than 90 percent of the crop is harvested in California, Texas, and Arizona.

According to the Census of Agriculture, cantaloupes were produced on 111,000 acres on 8,600 farms in 1978. Of those, 730 farms in California, Texas, and Arizona produced cantaloupes on 83,000 irrigated acres. Based on acreage harvested, the number of producers is believed to have declined slightly since 1978. For most of the producers, cantaloupes are one of several crops produced. However, for some of the producers, particularly some of those in California, Texas, and Arizona, the production of cantaloupes accounts for the largest part of their total operations.

Domestic production

Total U.S. production of cantaloupes increased irregularly from 1.1 billion pounds, valued at $114 million, in 1977 to 1.3 billion pounds, valued at $188 million, in 1981 (table 1). U.S. production of cantaloupes has averaged about 1.2 billion pounds annually since the 1950's. Production during the period covered by the proposed legislation (Jan. 1-May 15), believed to account for 5 percent of total U.S. production, also increased during 1977-81 (table 2). The cantaloupe harvest is highly seasonal. The shipping season normally begins in late April or early May for cantaloupes produced in Arizona, California, and Texas; the bulk of the shipments are made during June through August.

U.S. imports

During 1977-81, total U.S. imports of cantaloupes ranged from 196 million pounds, valued at $21 million, in 1978 to 138 million pounds, valued at $19 million, in 1981 (table 3). Data are not separately reported for the period covered by the proposed legislation--January 1-May 15. However, imports for January 1-May 30, 1977-81 were as follows:

January-May	Quantity (million pounds)	Value (Million dollars)
1977	145.0	16.3
1978	189.7	20.5
1979	187.0	21.5
1980	162.4	19.5
1981	125.5	18.1

On a quantity basis, 92 percent of the cantaloupes imported into the United States during 1977-81 entered during the period January-May. Mexico is by far the leading source of imported cantaloupes, supplying 98 percent of the total imports in 1981. Honduras and Costa Rica also supply small quantities. In 1981, two percent of the imports of cantaloupes entered duty-free from GSP-eligible suppliers.

U.S. exports

U.S. exports of cantaloupes during 1977-81 increased irregularly from 29 million pounds, valued at $4 million, in 1977 to a peak of 47 million pounds, valued at $6 million, in 1980. Canada is the principal market for U.S. exports of cantaloupes, taking 88 percent of total U.S. cantaloupe exports in 1977-81 (table 4). Exports of cantaloupes during the months of January through May 1977-81 ranged from 3 million pounds, valued at $893,000, in 1977 to 1 million pounds, valued at $249,000, in 1979. Exports during the first 5 months of the years 1977-81 were equivalent to about 6 percent of total exports (on a quantity basis) in those years.

Apparent U.S. consumption

U.S. consumption of cantaloupes averaged about 1.4 billion pounds annually during 1977-81. On an annual basis, imports supplied from 10 to 15 percent of consumption. About three-fourths of the consumption during the period covered by the proposed legislation (Jan. 1-May 15) is supplied by imports; such consumption is believed to have averaged about 220 million pounds annually during 1977-81.

Potential annual loss of revenue

Imports from GSP-eligible countries except Mexico are currently duty-free if imported during December 1-March 31. Based on imports in 1981, the annual loss of revenue would amount to about $6 million.

However, this legislation would also result in a savings to the U.S. Customs Service in determining the dutiable value of imported cantaloupes during the months included in the suspension. In general, cantaloupes do not have an invoice value when entering the United States, and Customs must use other, more time-consuming means to determine dutiable value.

Technical comments

This legislation should use the spelling now employed in the TSUS for the article, "cantaloupes".

Table 1.--Cantaloupes: U.S. production, exports, imports, and apparent consumption, 1977-81

(Quantity in thousands of pounds; value in thousands of dollars; unit value in cents per pound)

Year	Production	Exports	Imports	Apparent consumption	Ratio (percent of imports to consumption
			Quantity		
1977	1,076,000	28,284	182,758	1,229,934	15
1978	1,285,600	37,539	195,570	1,443,631	14
1979	1,242,100	32,235	194,631	1,404,496	14
1980	1,224,200	47,358	169,917	1,346,729	13
1981	1,334,600	45,778	138,041	1,426,863	10
			Value		
1977	113,991	4,335	20,676	1/	1/
1978	123,946	5,422	21,079	1/	1/
1979	139,847	4,867	22,106	1/	1/
1980	166,800	6,494	20,477	1/	1/
1981	188,070	6,945	19,580	1/	1/
			Unit value		
1977	11	15	11	-	-
1978	10	14	11	-	-
1979	11	15	11	-	-
1980	14	14	12	-	-
1981	14	14	14	-	-

1/ Not meaningful.

Source: Production compiled from official statistics of the U.S. Department of Agriculture; imports and exports compiled from official statistics of the U.S. Department of Commerce.

Table 2.--Cantaloupes, fresh: U.S. production, exports, imports, and apparent consumption, during the period January 1-May 15, 1977-81

(Quantity in thousands of pounds; value in thousands of dollars; unit value in cents per pound)

Year	Production 1/	Exports 2/	Imports 2/	Apparent consumption	Ratio (percent of imports to consumption
	Quantity				
1977	53,800	3,253	144,951	195,498	74
1978	64,300	1,446	189,702	252,556	75
1979	62,100	1,067	187,042	248,075	75
1980	61,200	3,116	162,397	220,481	74
1981	66,700	2,648	125,550	189,602	66
	Value				
1977	5,700	893	16,273	3/	3/
1978	6,200	326	20,535	3/	3/
1979	7,000	249	21,483	3/	3/
1980	8,300	590	19,501	3/	3/
1981	9,400	444	18,117	3/	3/
	Unit value				
1977	11	27	11	-	-
1978	10	23	11	-	-
1979	11	23	11	-	-
1980	14	19	12	-	-
1981	14	17	14	-	-

1/ Estimated, assuming 5 percent of total domestic production is shipped during Jan. 1-May 15.

2/ January-May.

3/ Not meaningful.

Source: Production estimated by the staff of the U.S. International Trade Commission; imports and exports compiled from official statistics of the U.S. Department of Commerce.

Table 3.--Cantaloupes, fresh: U.S. imports for consumption, by principal sources, 1977-81

Source	1977	1978	1979	1980	1981
	Quantity (1,000 pounds)				
Mexico------	179,168	192,285	189,871	166,128	135,707
Hondura-----	3,523	3,063	3,629	3,893	1,567
C Rica------	0	48	0	221	518
Guatmal-----	0	37	641	248	203
Dom Rep-----	0	2	36	19	30
Nicarag-----	0	12	288	0	10
France------	0	0	0	0	1/
Chile-------	0	0	0	118	0
Sweden------	3	0	0	35	0
Salvadr-----	39	19	62	55	0
All other---	27	105	104	0	0
Total---	182,758	195,570	194,631	169,917	138,041
	Value (1,000 dollars)				
Mexico------	20,375	20,798	21,671	19,987	19,190
Hondura-----	290	255	344	408	232
C Rica------	-	6	-	36	140
Guatmal-----	-	2	36	18	15
Dom Rep-----	-	2/	6	3	2
Nicaraq-----	-	2	36	-	1
France------	-	-	-	-	2/
Chile-------	-	-	-	11	-
Sweden------	-	-	-	8	-
Salvadr-----	8	3	8	6	-
All other---	3	13	6	-	-
Total---	20,676	21,079	22,106	20,477	19,580
	Unit value (per pound)				
Mexico------	$0.11	$0.11	$0.11	$0.12	$0.14
Hondura-----	0.08	0.08	0.09	0.13	0.15
C Rica------	-	0.13	-	0.16	0.27
Guatmal-----	-	0.05	0.06	0.07	0.07
Dom Rep-----	-	0.13	0.16	0.17	0.05
Nicarag-----	-	0.14	0.12	-	0.10
France------	-	-	-	-	7.94
Chile-------	-	-	-	0.09	-
Sweden------	-	-	-	0.23	-
Salvadr-----	0.20	0.17	0.13	0.10	-
All other---	0.10	0.12	0.06	-	-
Average--	0.11	0.11	0.11	0.12	0.14

1/ Less than 500 pounds.

2/ Less than $500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 4.--Cantaloupes, fresh: U.S. exports of domestic merchandise, by principal markets, 1977-81

Market	1977	1978	1979	1980	1981
	Quantity (1,000 pounds)				
Canada	21,385	35,620	30,821	45,585	44,329
Hg Kong	4,773	994	253	9	122
Switzld	24	168	53	72	115
Sweden	14	0	0	678	118
Bahamas	103	77	83	161	125
Japan	2,275	35	211	185	102
U King	38	133	383	89	61
Panama	0	0	0	3	39
Nethlds	20	2	0	57	71
Mexico	4	240	277	12	73
All other	188	269	156	538	124
Total	28,824	37,539	32,235	47,388	45,776
	Value (1,000 dollars)				
Canada	2,813	4,913	4,510	6,089	5,934
Hg Kong	883	303	57	4	56
Switzld	7	47	15	23	43
Sweden	4	-	-	178	35
Bahamas	25	11	19	23	34
Japan	533	8	39	46	25
U King	8	37	123	32	23
Panama	-	-	-	1	23
Nethlds	4	1	-	31	18
Mexico	1	48	59	3	15
All other	58	58	43	145	40
Total	4,335	5,422	4,867	6,494	6,245
	Unit value (per pound)				
Canada	$0.13	$0.14	$0.15	$0.13	$0.13
Hg Kong	0.18	0.30	0.23	0.41	0.46
Switzld	0.28	0.28	0.28	0.32	0.38
Sweden	0.27	-	-	0.26	0.30
Bahamas	0.24	0.14	0.24	0.14	0.27
Japan	0.23	0.22	0.19	0.25	0.25
U King	0.21	0.28	0.32	0.36	0.33
Panama	-	-	-	0.35	0.58
Nethlds	0.21	0.44	-	0.55	0.26
Mexico	0.22	0.20	0.21	0.24	0.20
All other	0.31	0.22	0.27	0.27	0.33
Average	0.15	0.14	0.15	0.14	0.14

Source: Compiled from official statistics of the U.S. Department of Commerce.

UNITED STATES-MEXICO CHAMBER OF COMMERCE
1000 POTOMAC STREET, SUITE 102
WASHINGTON, D.C. 20007 (202) 296-5198

Honorary President
His Excellency
Lic Bernardo Sepulveda Amor
Ambassador of Mexico

President and Chairman of the Board
Henry J. Luck
Vice President
Mobil South, Inc.

President, Mexico Coordinating Committee
Ernesto Rubio del Cueto
Director, Mexico
Grupo Cementos Mexicanos, S.A.

Executive Vice President
Gerard J. Van Heuven

June 3, 1982

COMMITTEE ON
JUN 16 1982
WAYS AND MEANS

Mr. John J. Salmon
Chief Counsel,
Committee on Ways & Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Salmon:

The United States-Mexico Chamber of Commerce represents most of the larger U.S. companies operating in Mexico and through its Mexican Directors over 170,000 Mexican companies, many of which are engaged in trade with the United States. The National Association of Mexican Growers is one of those groups represented by the Chamber.

The USMCOC wishes to state its support for H.R. 5790 introduced by Rep. Kika de la Garza (D-TX) to provide for the temporary duty free treatment of imported fresh cantaloupes during limited periods each year.

The present 35% rate of duty which applies to cantaloupes imported from Mexico during the January 1 through May 15 period, has been harmful to both countries. The duty has hurt the American consumer and Mexican grower resulting in fewer cantaloupes being imported at a higher price.

In 1981 Mexican exports of cantaloupes accounted for 87 thousand tons. The five previous years exports averaged 96 thousand tons. Approximately 24,000 Mexican workers are employed on this specific industry and many will lose their jobs should the present tariff remain in place.

As the United States-Mexico Chamber of Commerce continues its efforts to advance U.S.-Mexico trade relations we hope to have your support. In the Chamber's view passage of H.R. 5790 would be a positive step to improved bilateral trade and cooperation.

Sincerely,

Gerard J Van Heuven
Gerard J. Van Heuven

H.R. 5811

To reduce the tariff on caffeine

U.S. INTERNATIONAL TRADE COMMISSION

Purpose of the legislation

H.R. 5811, if enacted, would:

(1) amend the Tariff Schedules of the United States (TSUS) by reducing the column 1 1/ duty rate for caffeine (TSUS item 437.02) from "8.5% ad val." to "5.1% ad val.";

(2) upon request therefor filed with Customs within a specified period, make the reduced rate retroactive to December 31, 1981; and

(3) reduce the column 1 rate of duty for TSUS item 437.02 in equal annual stages from 4.8 percent ad valorem on January 1, 1983, to 3.6 percent ad valorem on January 1, 1987.

Background information

During 1978, at the request of the President, the Commission conducted a study which calculated the ad valorem equivalents of the specific and compound rates of duty for all items in the TSUS in accordance with section 601(4) of the Trade Act of 1974 (19 U.S.C. 2481). 2/

Section 601(4) of the Trade Act of 1974 provides that the ad valorem equivalent of a specific or compound rate of duty ". . . shall be determined

---

1/ The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

2/ U.S. International Trade Commission, Conversion of Specific and Compound Rates of Duty to Ad Valorem Rates, USITC Pub. 896, July 1978.

by the President on the basis of the value of imports of the articles concerned during the most recent representative period.", which was interpreted for any item as the most recent period (up to the time an agreement was entered into) considered representative of the trade in that item. The year 1976 was used as the base period for the conversion. Thus, for caffeine the converted rate of 10.4 percent ad valorem in column 1 was obtained by dividing the total calculated duty (assessed at a rate of 25 cents per pound) for imports of that TSUS item in 1976 by the corresponding total customs-appraised value. Similarly, the specific column 2 1/ rate of $1.25 per pound was converted to an ad valorem rate of 59 percent.

In general, importers felt that a later base period should have been used, while affected domestic producers felt that an earlier base period should have been used. Obviously, with prices increasing rapidly each year, an earlier base period would have resulted in higher converted rates while a later year would have resulted in lower converted rates. The unit value of imported caffeine, for example, increased from $2.40 per pound in 1976 to $4.26 per pound in 1980, before declining to $3.81 in 1981. So, while the ad valorem equivalent of 25 cents per pound in 1976 was 10.4 percent, it would have declined to 6.6 percent if 1981 had been used as the base year.

Subsequently during the Tokyo round of Multilateral Trade Negotiations (MTN), the United States negotiated staged tariff reductions on some items, including caffeine, based on the ad valorem equivalent determined by the Commission. Effective July 1, 1980, the column 1 rate of duty for caffeine

---

1/ The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

was reduced to 9.5 percent ad valorem. This rate is currently scheduled to be reduced in annual stages to a rate of 6 percent ad valorem effective January 1, 1987. The changes were made by a Presidential proclamation implementing portions of the Trade Agreements Act of 1979. 1/ When the negotiated rates went into effect, they had the effect of increasing the duties on caffeine in both column 1 and column 2, because price inflation had reduced the significance of the specific rate.

Description and uses

Pure caffeine is a white, odorless, crystalline powder with a bitter taste. It is one of the xanthine alkaloids and occurs naturally in coffee beans, tea leaves, and kola nuts. Caffeine is a central nervous system stimulant.

Most caffeine is produced by chemical synthesis or as a by-product of the production of decaffeinated coffee.

The principal end-use for caffeine is in cola soft-drinks. As a drug, caffeine is frequently added to analgesic and cold and allergy preparations to counteract drowsiness caused by other drugs in the preparations.

Tariff treatment

Caffeine is classifiable under TSUS item 437.02 when imported in bulk form. The column 1 duty rate for item 437.02 is 8.5 percent ad valorem, the least developed developing country (LDDC) rate of duty 2/ is 6 percent ad

---

1/ Proclamation No. 4768 of June 28, 1980, at 45 F.R. 45224, July 2, 1980.

2/ The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items which are the products of least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided for in column numbered 1 applies.

valorem, and the column 2 rate of duty is 59 percent ad valorem. The column 1 rate of duty for caffeine is to be reduced in annual stages until the LDDC rate is reached on January 1, 1987.

Caffeine is classifiable under TSUS item 440.00 when imported in ampoules, capsules, jubes, lozenges, pills, tablets, troches, or similar forms, including powders put up in medicinal doses. It is dutiable at the same rates as apply under item 437.02, but not less than 4.5 percent ad valorem (column 1) or 3.7 percent (LDDC).

Products classifiable under TSUS items 437.02 and 440.00 are eligible for duty-free entry under the Generalized System of Preferences (GSP). 1/

Structure of the domestic industry

In 1980, caffeine was produced in the United States by the following firms:

Certified Processing Corp.
U.S. Highway 22
Hillside, NJ 07205

General Foods Corp.
Maxwell House Coffee Div.
1125 Hudson Street
Hoboken, NJ 07030

Pfizer, Inc.
235 East 42nd Street
New York, NY 10017

Domestic production

Precise production data for caffeine are not available. However, production in 1980 is estimated to have been less than 4.6 million pounds.

1/ The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985.

U.S. imports

Virtually all caffeine is imported in bulk under TSUS item 437.02. Imports of caffeine under TSUS item 440.00 are nil. Imports of caffeine for the past 5 years are detailed in the following table for item 437.02.

West Germany supplied 85 percent of the quantity of caffeine imported into the United States in 1981 and was the dominant foreign supplier during 1976-81.

Caffeine, in bulk: U.S. imports for consumption, by principal sources, 1977-81

Source	1977	1978	1979	1980	1981
	Quantity (1,000 pounds)				
West Germany	2,796	3,292	4,368	6,026	3,198
Mainland China	0	0	0	171	463
Canada	0	0	0	29	0
All other	134	68	132	1	81
Total	2,930	3,360	4,500	6,227	3,742
	Value (1,000 dollars)				
West Germany	7,579	10,273	15,637	25,776	12,197
Mainland China	-	-	-	658	1,729
Canada	-	-	-	120	-
All other	402	242	511	1/	349
Total	7,981	10,515	16,148	26,554	14,275
	Unit value (per pound)				
West Germany	$2.71	$3.12	$3.58	$4.28	$3.81
Mainland China	-	-	-	3.85	3.73
Canada	-	-	-	4.14	-
All other	3.00	3.55	3.87	-	4.31
Average	2.72	3.13	3.59	4.16	3.81

1/ Less than $500.00

Source: Compiled from official statistics of the U.S. Department of Commerce.

U.S. exports

Export data for caffeine are not available, but U.S. exports of caffeine are believed to be negligible.

Apparent U.S. consumption

Since precise domestic production data are not available, apparent consumption can not be estimated accurately.

Potential annual loss of revenue

Based on the value of 1981 imports, the loss of revenue as a result of enactment of H.R. 5811 would be about $500,000 per year.

Technical comments

It is suggested that section 2 of the legislation be amended to provide that each of the staged duty reductions provided for therein would become effective "on and after each of the dates set forth . . ." rather than "after" the specified dates. This would be consistent with the statutory language implementing other staged reductions in tariff rates.

To take into account the new LDDC rate of duty resulting from the new staged reductions, section 1(a) of the legislation should be amended by changing the period after "5.1% ad val." to a comma and adding the following: "and by striking out "6% ad val." and inserting in lieu thereof "3.6% ad val."." Section 2 should be amended by inserting the designation "(a)" immediately after "SEC. 2." and by adding a new subsection after line 18:

> (b) Whenever the column 1 rate of duty for item 437.02 (as amended by section 1 and subsection (a) of this section) is reduced to the same level as, or to a lower level than, the corresponding rate of duty inserted in the column entitled "LDDC", the rate of duty in the column entitled "LDDC" shall be deleted from the TSUS.

Pfizer Inc.,
New York, N.Y., May 21, 1982.

Hon. **Sam Gibbons,**
Chairman, House Ways and Means Committee,
Washington, D.C.

Dear Mr. Chairman: In connection with the hearings before the Trade Subcommittee on miscellaneous tariff measures scheduled for May 26th, I am writing to express Pfizer's concern over a legislative proposal (H.R. 5811) currently pending before the Trade Subcommittee that would reduce the U.S. import tariff on synthetic caffeine. We do not believe this legislation, as proposed, should be enacted at this time.

There are three major producers of synthetic caffeine: two West German firms and one American manufacturer, Pfizer Inc. During the recent Tokyo Round of Multilateral Trade Negotiations (MTN), the U.S. import tariff on synthetic caffeine was altered from a set dollar amount per pound to 9 percent ad valorem which will gradually be reduced to 6 percent by 1987. By contrast, the EEC import tariff on synthetic caffeine, which protects the two German producers, was unaltered in the Tokyo Round and remains at the fairly high rate of 10.4 percent ad valorem. Such a high duty has adversely affected our ability to sell competitively in European markets. Moreover, the proposed legislation, by unilaterally accelerating the reductions in the U.S. duty rate to 3.6 percent by 1987, would serve to enhance the market position of our foreign competitors in the U.S. market.

It is Pfizer's view that further reductions in U.S. tariff rates are more appropriately and equitably achieved through bilateral or multilateral negotiations with our trading partners, towards a mutually beneficial package of tariff concessions. With respect to the particular case of snythetic caffeine, we suggested such an approach and have had exploratory discussions with the U.S. Government regarding the possibility of further reductions in both the U.S. and EEC tariffs. On May 17, 1982, the Administration testified in support of a one-year reduction in the U.S. tariff on imported synthetic caffeine to 6 percent ad valorem. During this period, comparable reductions in the EEC tariff rate would be pursued. If such efforts proved unsuccessful, the U.S. tariff would revert back to its present MTN staging.

It is our hope that the members of the committee can support this compromise solution and that H.R. 5811 will be amended accordingly. We believe this outcome will provide an equitable resolution of this issue and serve the interests of all parties concerned. We would sincerely appreciate it if this letter could be inserted in the record of the May 26th hearings. Thank you for your consideration.

Sincerely,

Frank Adams, Jr.,
President, Chemical Division.

H.R. 5823

To suspend until the close of June 30, 1986, the duty on certain bicycle parts

U.S. INTERNATIONAL TRADE COMMISSION

Purpose of legislation

H.R. 5823, if enacted, would extend the expiration date for the current duty suspension on generator lighting sets for bicycles and parts thereof (item 912.05 of the Appendix to the Tariff Schedules of the United States (TSUS)) and other specified bicycle parts (item 912.10) from June 30, 1983 to June 30, 1986 and would amend the article description for item 912.10 to remove click stick levers from the temporary duty suspension provisions. These two temporary provisions would allow U.S. producers of bicycles to import from countries entitled to Most-Favored-Nation treatment generator lighting sets and their parts and other specified bicycle parts without payment of duty. Except for caliper brakes (see structure of the industry below), these articles are not produced in the United States.

Although click stick levers are not produced in the United States, they are apparently being removed from the list of articles covered by the suspension because substantial amounts of other types of levers have been entered duty-free as click stick levers. These other types of levers are produced in the United States by Excel, Inc., Franklin Park, Illinois.

Description and uses

Generator lighting sets, item 912.05, are used for illumination when riding a bicycle at night. Parts of generator lighting sets for bicycles include a number of items, such as headlamps with mounting brackets, taillights, lens and reflector units, and set screws. Except for coaster brakes, which are used principally on less expensive bicycles, the bicycle parts covered by item 912.10 are used on higher-priced multispeed bicycles. Many of these parts are made of high quality alloy metal.

Tariff treatment

In the absence of the temporary duty-free provisions, the subject bicycle parts are classifiable under various TSUS provisions as discussed below. Imported generator lighting sets for bicycles, and parts thereof, are currently provided for under TSUS item 653.39 at a column 1 rate of duty 1/ of 14.7 percent ad valorem, an LDDC rate 2/ of 7.6 percent ad valorem, and a column 2 3/ rate of 45 percent ad valorem. This item, if imported from any designated beneficiary country, is included on the list of eligible articles for purposes of the Generalized System of Preferences (GSP). 4/ Imported coaster

---

1/ The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries since they are granted preferential tariff treatment under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

2/ The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

3/ The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items which are the products of least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided for in column numbered 1 applies.

4/ The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985.

brakes designed for single-speed bicycles are provided for under TSUS item 732.35 at a column 1 rate of duty of 11.6 percent ad valorem, an LDDC rate of 6 percent ad valorem, and a column 2 rate of 30 percent ad valorem. Imports under this item are also eligible for GSP treatment regardless of source. Imported three speed hubs whether or not incorporating a coaster brake, caliper brakes, and multiple free wheel sprockets are provided for under TSUS item 732.38 at a column 1 rate of duty of 11.6 percent ad valorem, an LDDC rate of 6 percent ad valorem, and a column 2 rate of duty of 30 percent ad valorem. Imports from any beneficiary country under this item are eligible under the GSP for free entry. Imported drum brakes, variable speed hubs (other than three speed) with internal gear-changing mechanisms, click twist grips, cotterless type crank sets, parts of all the foregoing and parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for the assembly (with other parts) into the frame and fork of one bicycle are provided for under TSUS item 732.41 at a column 1 rate of duty of 11.6 percent ad valorem, an LDDC rate of 6 percent ad valorem, and a column 2 rate of duty of 3C percent ad valorem. Imports under this item are not eligible for GSP treatment. The remaining parts included in item 912.10 are classified under TSUS item 732.42 at a column 1 rate of 14.2 percent ad valorem , an LDDC rate of 10 percent ad valorem, and a column 2 rate of 30 percent ad valorem. Imports under item 732.42 are not included for purposes of the GSP.

Structure of the domestic industry

With the exception of caliper brakes, there are no U.S. firms producing any of the articles on a commercial scale which would enter duty-free under this legislation. One firm, Dia-Compe, Inc., Fletcher, N.C., a wholly owned subsidiary of Yoshigai-Kikai Kinzoker Co., Ltd. Osaka, Japan, produces caliper brakes. However, all the caliper brakes produced by Dia-Compe are assembled from parts imported free of duty from its parent company. The only product which the firm produces in caliper brakes.

Domestic production

Although Dia-Compe would prefer not to reveal data on its production of caliper brakes because it is the only U.S. producer, it did indicate that it employs approximately 100 workers. None of the other parts which will continue to receive duty-free treatment under this legislation are produced on a commercial scale in the United States.

U.S. imports

The following tabulation shows the value of duty-free imports (including a small amount of rims, which were removed from coverage in the last extension of the legislation, in 1977-80) entered under TSUS items 912.05 and 912.10, for the years 1977-81:

	Item 912.05 (1,000 dollars)	Item 912.10 (1,000 dollars)
1977	1/ 168	1/ 4,346
1978	1,510	68,548
1979	1,931	2/ 60,200
1980	3/ 1,696	3/ 58,548
1981	636	59,244

Footnotes on page 5.

In 1981, West Germany was the principal supplier of imports entered under item 912.05, accounting for 29 percent; Taiwan for 23 percent; Japan for 18 percent; and France for 14 percent. Japan was the leading supplier for imports entered under item 912.10, accounting for 77 percent of the total, while the next largest supplier, Mexico, provided only 9 percent. In 1981, imports of bicycle parts entered under item 912.10 accounted for 42 percent of total imports, dutiable and duty-free, of such parts entered in schedule 7, part 5, subpart c. In 1981, only 4,000 dollars' worth of imports of such articles originated from column 2 countries.

The principal importers of these articles are the domestic producers of bicycles.

U.S. exports

Dia-Compe indicates that it exports a limited amount of caliper brakes to Canada and Mexico. None of the other articles covered in this legislation are exported because they are not produced in the United States.

Footnotes from page 4.

1/ P.L. 93-490 expired on Dec. 31, 1976. P.L. 95-161, extending temporary duty suspension on bicycle generator lighting sets and parts and on certain bicycle parts until June 30, 1980, was enacted Nov. 8, 1977; it provided for duty-free treatment on the lighting sets and parts and on bicycle parts covered under the prior law and included in the new one, retroactive to Jan. 1, 1977. However, statistics are not available for these articles entered during Jan. 2-Nov. 8, 1977.

2/ Partially estimated by the U.S. International Trade Commission on the basis of official statistics.

3/ P.L. 95-161 expired on June 30, 1980. P.L. 96-467, extending temporary duty suspension on bicycle generator lighting sets and parts and on certain bicycle parts until June 30, 1983, was enacted Oct. 17, 1980; it provided for duty-free treatment on the lignting sets and parts and on bicycle parts covered under the prior law and included in the new one retroactive to July 1, 1980. However, statistics are not available for these articles entered during July 1-Oct. 17, 1980.

Apparent U.S. consumption

For all of these articles, except for caliper brakes, apparent U.S. consumption equals U.S. imports of such articles. As noted above, Dia-Compe prefers not to reveal its production of caliper brakes; thus, U.S. apparent consumption cannot be computed.

Potential annual loss of revenue

Based on imports in 1981, the Treasury would have collected $7.8 million in revenue (including a relatively small amount of duties on click stick levers, which have been deleted in the proposed legislation) if the full duties had been assessed on the articles entered in items 912.05 and 912.10.

Technical comments

On page 1, line 8 of the proposed legislation, the matter being deleted from TSUS item 912.10 should be modified to read "click stick levers,".

In subsection (c) of the legislation, a comma should be inserted after "consumption".

H.R. 5839

To apply duty-free treatment to hosiery knitting machines

U.S. INTERNATIONAL TRADE COMMISSION

Purpose of the legislation

H.R. 5839, if enacted, would amend the Tariff Schedules of the United States (TSUS) to provide for permanent duty-free entry from column 1 countries 1/ of circular hosiery knitting machines and full-fashioned hosiery knitting machines.

Description and uses

Knitting is the production of fabric by the formation of loops of yarn and the pulling of each newly formed loop through one that has already been made. These operations are performed by hooked needles. Circular and noncircular knitting machines are used to make hosiery, although the use of the latter type has virtually ceased in the United States.

Noncircular hosiery knitting machines, including those known as full-fashioned machines, are not produced in the United States but are imported in limited quantities. Such machines are used chiefly to make panties and leotards, rather than hosiery. Therefore, virtually all hosiery knitting machines sold in the United States are of the circular design; such machines will be the principal subject of this report.

In circular knitting machines, needles are housed individually in slots cut axially in the interior wall of a steel cylinder. As the vertically

---

1/ The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

positioned cylinder rotates, a system of cams at its base engages the needle butts, causing the needles to move up and down in their respective slots. Ends of yarn fed to the top of the cylinder are caught by the needles and formed into loops as each needle makes its descent from the raised position.

Circular hosiery knitting machines may be subdivided into two major categories, namely, single cylinder and double cylinder. In turn, single cylinder machines may be classified as either fine or coarse gauge machines. Currently, only single cylinder hosiery knitting machines, coarse gauge, are manufactured in the United States. In the last 5 years, double cylinder hosiery knitting machines were only produced in the United States during 1980-81; such production was on a limited basis by one firm.

Single cylinder hosiery knitting machines include fine gauge models, with 300 or more needles per cylinder, and coarse gauge models, with less than 300 needles per cylinder. The fine gauge machines are used to make fine gauge sheer and service weight stockings and pantyhose for women, whereas the single cylinder coarse gauge machines produce "half-hose" that include heavier stockings (other than articles commonly referred to as "nylons") ranging from anklets to knee-high and over-the-knee styles.

Double cylinder hosiery knitting machines are used to manufacture half-hose for men, women, and children. These machines are fitted with a distinctive double-headed latch needle which is transferred to one or the other of the superimposed cylinders as required, producing a more intricate pattern (including a three-color combination) than single cylinder machines.

In recent years, due in part to the increased popularity of the bulkier half-hose, the value of U.S. shipments of half-hose has exceeded the value of U.S. shipments of women's stockings and pantyhose. There are no separate data for half-hose produced by single cylinder and double cylinder machines.

Tariff treatment

Circular hosiery knitting machines are provided for in TSUS item 670.16. Full-fashioned hosiery knitting machines are provided for in TSUS item 670.18. The column 1 rate of duty applicable to imports under item 670.16 is 5.7 percent ad valorem; the column 1 rate of duty applicable to imports under item 670.18 is 6.9 percent ad valorem.

The MTN staged tariff reductions for these items are as follows (percent ad valorem):

TSUS item	On or after January 1--					
	1982	1983	1984	1985	1986	1987
670.16----------	5.7	5.5	5.2	4.9	4.7	4.4
670.18----------	6.9	6.6	6.2	5.8	5.5	5.1

The column 2 rate of duty [1] is 40 percent ad valorem for both items. In 1981, column 2 imports under item 670.16 amounted to $186,000. There were no column 2 imports under item 670.18 in 1981.

The rates applicable to least developed developing countries (LDDC's) [2] are 4.4 percent ad valorem for item 670.16 and 5.1 percent ad valorem for item 670.18. There were no imports under either item from the LDDC's in 1981.

---

[1] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[2] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items which are the products of least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided for in column numbered 1 applies.

Since the legislation would eliminate the column 1 rate of duty for these items, the LDDC rate should also be deleted.

Articles covered by items 670.16 and 670.18 are currently eligible under the Generalized System of Preferences (GSP) for duty-free entry into the United States when imported from designated beneficiary developing countries. [1] In 1981, imports from beneficiary countries under items 670.16 amounted to $8,000; there were no GSP imports under item 670.18.

Structure of the domestic industry

Item 670.16.--During the period 1977-81, there were four U.S. firms producing circular hosiery knitting machinery. Three of the four continue to produce such machines. One firm, Scott and Williams, Inc., of Laconia, N.H., was the sole producer of double cylinder machines and produced such machines only during 1980-81; the company has since gone out of business. Scott and Williams also produced a small number of single cylinder coarse gauge hosiery machines, accounting for less than 1 percent of the quantity of all such machines produced in the United States during 1977-81.

All of the other three firms have been producing only single cylinder coarse gauge machines. H. E. Crawford Co., Inc., Kernersville, N.C. produced about 50 percent of all such machines made in the United States during 1977-81; during the same period, Speizman Industries, Inc., Charlotte, N.C., produced about 42 percent, and Catawba Valley Machine Co., Inc., Hickory, N.C., produced the remainder of the hosiery machines. Each of these three firms also imported one or more types of circular hosiery knitting machinery during that period.

---

[1] The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985.

Hosiery machinery manufacturers in the United States currently employ approximately 2,000 persons.

There were 615 1/ hosiery manufacturing plants in the United States in 1977. About 83 percent of these plants were located in North Carolina, Tennessee, Pennsylvania, and Alabama; 64 percent were in North Carolina alone.

In 1980, there were 84,644 2/ circular hosiery knitting machines in place at U.S. factories. Of the total, 37,626 (or 44 percent) were single cylinder fine gauge (300 needles and over); 32,375 (or 38 percent) were single cylinder coarse gauge (under 300 needles); and 14,643 (or 17 percent) were double cylinder.

Item 670.18.--There were no U.S. producers of full-fashioned hosiery knitting machines in 1977-81. In the same period there was only one plant, located in North Carolina, manufacturing full-fashioned hosiery.

Domestic production and exports

Item 670.16.--U.S. producers of circular hosiery knitting machinery were unwilling to release data on annual production or shipments of machines and aggregate industry data were not available. An official of one of the manufacturers estimated that approximately 6,000 machines were produced in the United States during 1977-81. Since the only production estimate available was for the combined 5-year period, no trend can be determined.

1/ Official statistics of the U.S. Department of Commerce.

2/ Speizman Industries, Inc., 1980 Survey & Analysis of Circular Hosiery in the United States.

During 1977-81, total U.S. exports of circular hosiery knitting machinery were as follows:

Year	Quantity (Units)	Value 1/ (1,000 dollars)
1977 2/	282	1,191
1978	724	2,082
1979	780	2,313
1980	1,116	2,969
1981	437	1,695

1/ Compiled from official statistics of the U.S. Department of Commerce.
2/ Exports in 1977 were recorded under the category "Knitting Machines, Hosiery." The staff of the Commission believes that all of these machines were circular, because there was no U.S. production of full-fashioned hosiery knitting machines, the only noncircular type of hosiery knitting machines, after 1975. After 1977, the category became "Hosiery Knitting Machines, Circular".

U.S. imports

Item 670.16.--During 1977-81, total imports under item 670.16, circular hosiery knitting machinery, were as follows:

Year	Quantity (Units)	Entered Value 1/ (1,000 dollars)
1977	1,256	5,884
1978	1,887	10,810
1979	2,162	12,471
1980	1,582	10,449
1981	1,215	9,252

1/ Compiled from official statistics of the U.S. Department of Commerce.

In 1981, Italy was the primary source of these machines, accounting for approximately 94 percent, by quantity, and 93 percent, by value, of the total U.S. imports. The two major Italian producers, Matec-Villi and Lonati, export all three types of circular hosiery knitting machines. Another U.S. source of double cylinder machines was Bentley of the United Kingdom.

In 1981, imports from Czechoslovakia, the only column 2 source, accounted for approximately 2 percent of the quantity and value of all imported circular hosiery knitting machines.

In addition to the three U.S. manufacturers who import, other U.S. importers of circular hosiery knitting machinery include Henderson Machinery, Inc., Greensboro, N.C.; Overseas Textile Machinery, High Point, N.C.; Monarch Knitting Machinery Corp., Glendale, N.Y., and Artex, Inc., Charlotte, N.C.

Imported single cylinder coarse gauge machines are not substantially different from such machines made in the United States. Separate import data for the different types of circular hosiery knitting machinery are not available.

Item 670.18.--During 1977-81, total U.S. imports under item 670.18, full-fashioned hosiery knitting machines, were as follows:

Year	Quantity 1/ (Units)	Entered Value 1/ (1,000 dollars)
1977	0	-
1978	0	-
1979	4	127
1980	24	24
1981	20	35

1/ Compiled from official statistics of the U.S. Department of Commerce.

In 1979, Switzerland was the sole source, and in 1980, Canada was the only source. Imports in 1981 came from the United Kingdom (60 percent in quantity) and Italy (40 percent in quantity). Import levels can be expected to continue to be irregular, because demand for this type of machine is sporadic.

Apparent U.S. consumption

Item 670.16.—Apparent U.S. consumption of circular hosiery knitting machines during 1977-81, based on estimated domestic production plus actual imports minus exports, was 10,763 machines.

Item 670.18.--Because there is no domestic production of full-fashioned hosiery knitting machines, apparent U.S. consumption is equivalent to imports: zero units in 1977-78, 4 units in 1979, 24 units in 1980, and 20 units in 1981.

Potential annual loss of revenue

The average annual customs revenue loss resulting from this legislation would be approximately $458,975 under item 670.16; the average annual customs revenue loss under item 670.18 would be approximately $2,115. Thus, the combined average annual customs revenue loss would be $461,090. This estimate is based on 1981 import levels and on the staged reductions of the tariff rates in effect during 1982-87. The estimate takes into account the fact that the duty status of imports from column 2 and GSP beneficiary countries would not change.

Detailed revenue estimates are shown in the following table.

Estimated annual revenue loss, by TSUS items, 1982-87

Year	Item 670.16	Item 670.18
1982	$516,346	$2,425
1983	498,229	2,320
1984	471,053	2,177
1985	443,877	2,039
1986	425,759	1,933
1987	398,583	1,793

H.R. 5884

To apply duty-free treatment to machines specifically designed for stretch or heat-set texturing of continuous filament man-made fibers

[No reports or comments were received on this bill.]

H.R. 5891

To reduce temporarily the duty on certain hospital and surgical apparel

COMMENTS OF THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

The AFL-CIO opposes H.R. 5891 which reduces temporarily the duty on non-woven disposable hospital and surgical apparel and other products designed for use in hospitals, clinics, laboratories or contaminated areas. There are only 10 firms in the U.S. producing such disposable apparel. The products come in as parts of "basket categories" in the tariff schedule. This affects even more jobs and production than the items listed above. The tariffs are already being reduced in stages as a result of the Tokyo Round Negotiations. Some of these firms also use the tariff provision that allows goods to be reimported duty free, for the amount of "exports" from the U.S. Thus, parts of a garment can be exported, sewn together abroad, and reimported at a rate based only on the value added abroad (TSUSA 807). The reimported item contains mostly foreign labor costs. The result is that the passage of H.R. 5891 would further undercut jobs and production in an industry which is already being undermined by U.S. imports of these products and by U.S. export of related jobs.

STATEMENT OF THE INTERNATIONAL LADIES' GARMENT WORKERS' UNION

H.R. 5981 proposes to reduce duties on non-woven disposable apparel and other products designed for use in hospitals, clinics, laboratories or contaminated areas. Men's and boys' apparel in the instant case is currently imported into the United States under TSUSA 379.9501 and 379.9601 and that for women, girls and infants under TSUSA 383.9205; non-apparel items in the instant case are imported under TSUSA 389.6265, a broader basket category which in addition to non-woven disposable products for hospital, clinic, laboratory and contaminated area use includes a variety of other unrelated products produced from man-made fibers that are not specifically provided for elsewhere in schedule 3 of the Tariff Schedules of the United States.

The International Ladies' Garment Workers' Union strongly opposes H.R. 5891. In the first instance, the existing duty rates were already reduced in 1982 in the wake of the modifications in duty rates called for in line with the concessions made by the United States in the course of the recent Tokyo Round of Multilateral Trade Negotiations. Furthermore, for all practical purposes, the actual duties paid on the import of the particular items are much lower than those called for if the applicable duties were paid on the full value of these imported items. In fact, these products enter the United States under the provisions of Item 807.00 of the Tariff Schedules of the United States.

In 1981, for example, the applicable duty on men's and boys' non-disposable apparel was only 30.2 percent of the regular duties that would have been charged because these garments were entered into this country from Mexico under Item 807.00. Similarly, the applicable duty on women's, girls', and infants' apparel amounted to 33.2 percent of the regular duty amounts because these were Item 807.00 imports. In the case of non-woven products other than apparel for hospital, clinic, laboratory or contaminated area use, the regular duty amounts were cut back to 22.9 percent of the regular amount because they came from Mexico under Item 807.00.

Parenthetically, we should add that virtually all of the non-woven disposable apparel and non-apparel for the specialized purposes to which we have referred enter the United States from Mexico. With the scheduled reduction of the duty rates under our present tariff legislation, the fractional payment of the duty amounts will continue to seriously undermine the opportunity of those producers who continue to manufacture these products within the boundary limits of the United States. There is no justification whatsoever to further jeopardize domestic production and employment of workers in this country.

See also p. 359 for adverse comments of the Man-Made Fiber Producers Association, Inc.

H.R. 5947

To provide for the duty-free entry of perfumes, colognes, and toilet waters imported for use as samples

[No reports or comments were received on this bill.]

H.R. 6176

Relating to the tariff treatment of certain canned mushrooms

Statement of Sidney Schoenfeld, President, SSC International, Inc.

Mr. Chairman: I deeply appreciate your courtesy in granting me this opportunity to present this statement on behalf of H.R. 6176, introduced by Congressperson Marge Roukema of the State of New Jersey.

H.R. 6176 was introduced for the purpose of granting relief to my company, which imports and distributes a board range of canned food products from many producing areas throughout the world.

Early during 1980, we made commitments with mushroom canners in Taiwan for the purchase of mushrooms. Shipments were scheduled over an extended period of time. We were taken by surprise when President Carter signed a proclamation—which, by law, would go into effect in 15 days—increasing the duty on imported canned mushrooms from the 10 percent Ad Valorem then in effect to 30 percent Ad Valorem, for a 3 year period beginning Nov. 1, 1980. SSC had products en route from our suppliers which could not and did not arrive in this country prior to the effective date of the higher duty. There were a total of 18 such shipments that were subject to excess duty penalties amounting to $91,275.05. These excess duties were paid under protest.

The attached listing gives the details on each of these shipments. You will note that, as provided in H.R. 6176 all of the items were purchased under a forward fixed price sales contract concluded before Aug. 18, 1980 and by means of Bills of Lading issued before Oct. 17, 1980.

After protesting the payment of these 18 items, our company sought relief administratively from the United States Trade Representative, who, after looking carefully into the matter, said that, while he would not want to support a measure to alter the Proclamation in any way, he would not oppose a measure that proposed private relief to compensate a company for duties paid on specific entries of goods—providing that those entries were performed during specific periods—the periods contained in H.R. 6176.

Therefore, Mr. Chairman, this bill does not detract from the effectiveness of Presidential Proclamation 4801 in any way. My firm has paid the increased duty on all orders issued since the latest one shown on the attached list, and will continue to do so. This is not a broad exemption—it is merely compensation for a specific number of items properly obligated and shipped, but for which it was impossible to effect entry before the deadline of the higher tax. Numeous orders arrived shortly after the dates specified and, of course, they are not included.

I fully appreciate the difficulties encountered by our law makers and regulations promulgators, and my company and I deeply appreciate this opportunity to present my request for a proper refund in this instance.

SSC INTERNATIONAL, INC.

	ITEM NO.	EXCESS DUTY	QUANTITY	PURCHASE DATE	B/L DATE	DISCHARGE PORT	VESSEL	LOADING PORT	ARRIVAL DATE	CUSTOMS ENTRY DATE	ENTRY NO.
1.	L-28255/ L-28266	$ 8602.00	1700 cs.	8/8/80	10/7/80	Baltimore	Kiso Maru	Kaohsiung	11/30/80	11/28/80	81-118906-8
2.	L-27521	$ 4199.00	850 cs.	7/23/80	9/26/80	Baltimore	Tohbei Maru	Kaohsiung	11/6/80	11/20/80	81 1-00118528
3.	L-28219	$ 4283.00	850 cs.	8/6/80	10/1/80	Charleston	N Y Maru	Kaohsiung	12/2/80	12/8/80	81 113856-9
4.	L-27834	$ 4301.00	850 cs.	8/6/80	10/1/80	Charleston	N Y Maru	Kaohsiung	12/2/80	12/8/80	81-113856-9
5.	L-27877	$ 4295.00	850 cs.	7/23/80	10/1/80	Philadelphia	N Y Maru	Kaohsiung	11/26/80	12/9/80	81-116071-5
6.	L-28217	$ 4199.00	2457 cs.	7/23/80	10/7/80	New York	Kiso Maru	Kaohsiung	11/29/80	12/9/80	81-1-00277381
7.	L-28216	$ 4227.20	2024 cs.	7/23/80	10/7/80	New York	Kiso Maru	Kaohsiung	11/29/80	12/9/80	81-1-00277381
8.	E-27965/ E-27966	$ 7004.88	5000 cs.	2/7/80	9/23/80	Baltimore	Amer Trader	Wenzhoul Hong Kong	11/13/80	11/26/80	81-00118817
9.	E-27967	$ 3439.02	2500 cs.	2/7/80	9/23/80	New York	Amer Trader	"	11/15/80	11/26/80	81-00276882
10.	L-27861	$ 4301.45	850 cs.	7/23/80	10/1/80	Baltimore	N Y Maru	Kaohsiung	11/24/80	12/2/80	81-1-0018814
11.	L-27921	$ 2329.00	850 cs.	8/12/80	9/28/80	Charleston	N Y Maru	Kaohsiung	11/11/80	11/19/80	81-113659
12.	E-28161	$ 4301.00	850 cs.	8/6/80	10/1/80	Baltimore	N Y Maru	Kaohsiung	11/24/80	12/2/80	81-1-0018814
13.	L-28102	$ 4088.00	2800 cs.	7/23/80	9/25/80	Baltimore	N J Maru	Kaohsiung	11/8/80	11/13/80	81-118604-5
14.	L-28298	$ 8602.00	1700 cs.	7/23/80	10/13/80	Seattle	Hotaka Maru	Kaohsiung	11/2/80	11/7/80	81-1-00534169
15.	L-28299	$12699.00	2550 cs.	7/23/80	10/13/80	Stockton	Japan Ace	Keelong	11/6/80	11/7/80	81-1728076
16.	L-28100	$ 4276.00	800 cs.	8/6/80	9/28/80	Baltimore	N J Maru	Kaohsiung	11/8/80	11/13/80	81-118604-5
17.	L-28146	$ 1828.00	850 cs.	8/6/80	9/28/80	Baltimore	N J Maru	Kaohsiung	11/8/80	11/18/80	81-1-00118627
18.	L-28228	$ 4300.50	850 cs.	8/8/80	10/1/80	Baltimore	N Y Maru	Kaohsiung	11/24/80	12/2/80	81-1-0018814
		$ 91275.05									

H.R. 6239

To amend the Tariff Schedules of the United States to provide for rates for duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations

DEPARTMENT OF AGRICULTURE

This is in response to your request for this Department's views and comments on H.R. 6239, a bill "To amend the Tariff Schedules of the United States to provide for rates of duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations."

The Department opposes enactment of this bill.

This bill would provide for increased duties on cut roses above the 8 percent negotiated in 1979 in the Multilateral Trade Negotiations. Any unilateral action resulting in an increased duty means that the United States would owe compensation for removal of this international commitment to countries supplying roses and would be obliged to adjust duties on other products or risk the possibility of retaliatory action against U.S. exports.

The bill seeks to link U.S. duties to those in the European Community. The Department questions the rationale for such an initiative. Colombia is the leading supplier of roses to the United States—$11.1 million out of the total $13.1 million in 1981. Other minor suppliers are the European Community, Guatemala, Israel and Canada—$0.9 million, $0.3 million, $0.3 million and $0.2 million respectively. It might also be noted that the bill, as currently drafted, provides for a 24 percent duty during the winter months at a time when the duty in the European Community is 17 percent. It provides for a 17 percent duty during the summer months at a time when the duty in the European Community is 24 percent. The proposed duties thus would not be consistent with those of the European Economic Community.

Enactment of this bill would involve no additional costs for the U.S. Government.

The Office of Management and Budget advises there is no objection to the presentation of this report from the standpoint of the Administration's program.

J. H. THOMPSON, INC.,
Kennett Square, Pa., May 24, 1982.

Representative RICHARD T. SCHULZE,
House Office Building, Washington, D.C.

DEAR MR. SCHULZE: Thanks for your letter of May 20th advising me that you are a cosponsor of H.R. 6239, a bill to increase the tariffs on imported cut roses.

Your letter came to us this morning. I hope my response reaches you in time to insert this letter in the record of the hearing on May 26th.

What follows is an account of how imported flowers have gained a foothold in this country. This account was prepared for us by our trade association, Roses, Inc. The account starts out with pompons and carnations, by way of illustration, and then goes on to talk about what is happening to our product, cut roses.

Here's the story:

1. Cut flowers imports started to take shape in the early 1970's. Offshore growers as early as 1972 held 10.5 percent of the pompon chrysanthemum market and 8.3 percent of the carnation sales in the U.S.

2. By 1977 domestic growers were concerned with the imported cut flowers and filed a 201 petition with the ITC in 1977. Roses Inc. did participate in that effort which was an all industry-cut flower petition. No relief was granted.

3. Seeing market shares owned by the offshore growers increase rapidly, made Roses Inc. decide to act on its own, filing a 201 petition in November of 1979.

Also at that time we filed a petition with the International Trade Administration of the Department of Commerce, requesting countervailing duties on roses from Israel and the Netherlands.

During this time period we were observing considerable market penetration by importers in the carnation and pompon markets, and certainly roses were also being affected. We felt the need to act before our industry was as seriously impacted as these other crops.

In February 1980 the ITC determined no injury from roses from the Netherlands due to the small number of blooms being shipped. The issue of their grower subsidies was never addressed and the fact that their shipments of roses were targeted into three, two-week periods during the year, magnifying their impact, was ignored.

In April 1980 we were advised by the ITC that they found no injury, and no relief was granted under the 201 petition.

By September 1980 the ITA (nearly a year after the petition was filed) determined subsidies did exist on the Israel production and granted us what turned out to be a 1.55 percent countervailing duty.

Disappointed by the small countervailing duty awarded, this matter was presented to the U.S. Court of International Trade for review. Some progress appears to be made in this issue, with the ITA now agreeing that additional duties should have been assessed. The matter is still in the hands of the Court, and may well not be reported out until June of this year. This has been closely a two and one half year debate which even then may be delayed by appeals.

4. On June 4, 1981 Roses Inc. filed an anti-dumping petition against Colombia, with the International Trade Administration of the Department of Commerce.

The ITA denied relief in this action by dismissing the petition and closing the investigation. Roses Inc., in disagreement with the handling of the matter, took the issue to the Court of International Trade. Last week we found that the Court agreed that the matter was mishandled by the ITA and now, some ten months later, we see the investigation getting underway again.

5. Along the way we have asked for undervaluation studies on imported roses feeling that they were being entered at unrealistic prices for duty purposes and these matters are still in various stages of process.

6. At the same time, Roses Inc., our national trade association which represents over 80 percent of the cut rose growers and production, has been spending over 50 percent of its dues income to promote roses. Specifically, we have set out to make the rose market bigger. We have in fact been successful, but with regret the added sales we have created have simply gone to the importers.

Likewise, we have maintained a research program that is aimed at helping growers increase their production per square foot, improve their quality, decrease or hold costs, and learn more about our buyers through market research. Again, this has been a successful program which has, among other things, shown us how to cut greenhouse heating.

7. However, we, like other rose growers, are a small family-owned operation that has put our assets into a single-use production structure, growing a product that must be marketed in a very short time or it becomes useless. A rose greenhouse makes a very poor public building, retail store or office; and there is very little use for old roses as you don't seem to be able to freeze or can them for next year's use. Hence, we are a very sensitively balanced business and when we look at import penetration figures like the ones in the following chart, we have grave concerns for our family's future.

MARKET PENETRATION BY OFFSHORE GROWERS FOR YEARS INDICATED

[In percent]

Crop	1972	1976	1981
Pompons	10.5	32.9	54.8
Carnations (started)	8.3	25.9	58.7
Roses	.4	1.3	14.6
Started Mums	9.1	7.0	19.9

8. Recently our parent trade association in floriculture, the Society of American Florists, made an effort to get tariffs from European Economic Community countries reduced to match the 8 percent we now have on roses. It was hoped that such action would allow U.S. producers to expand sales through exports.

The embassies contacted advised that there was little interest or chance of such action, and if the industry did care to pursue such a course it would need to gain votes of each EEC participant to carry an appropriate resolution in Brussels, a task that seems extremely remote to my way to thinking.

With the above background, I hope that you can see that the rose industry, both from an individual and total industry point of view, has tried very hard to insure its position in the future.

We have been especially mindful that we need to act today to solve tomorrow's problems. Perhaps we were a bit early in our original 201 effort back in 1977. However, we felt then, and have observed in the carnation and pompon industry, that you must act before your industry is damaged so deeply that you cannot recover.

We hope you can help us. We feel we have been getting the run-around in our efforts thus far. We have already given up 14.6% of our U.S. market, our own market, and time passes. We need help now before we do get hurt more, perhaps fatally.

Sincerely yours,

GEORGE C. TURNER.

H.R. 6268

To remove the column 1 rate of duty on certain small toy and novelty items

COMMENTS OF THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

The AFL-CIO opposes H.R. 6268 which provides duty-free treatment to figures of animate and inanimate objects, tricks and practical joke articles, small toys and similar articles valued at not over 15 cents each (import price). This bill covers what are 17 different tariff schedule items ranging from 4% to 21.3%. These items would include balls, playing cards, puzzles and games (not including dice). Over 1,000 U.S. firms made articles of these categories in 1981. Thousands of workers who make these items would lose jobs in areas already hard-hit by recession and imports.

H.R. 6396

To provide for the duty-free treatment of certain needlecraft display models, and for other purposes

COMMENTS OF THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

The AFL-CIO opposes H.R. 6396, which provides for duty-free entry of needlecraft display models and for other purposes. There is already fierce competition which erodes job opportunities in the United States, particularly in Puerto Rico. The "models" are not a separate item which can be easily identified and separated from the needlecraft kits for sales purposes. Furthermore, each store that schedules a sales demonstration will need to import a separate model. Thus, there could be as many imports of "models" as there are sales demonstrations. Such practices will adversely affect the jobs of American workers in the needle trades.

ARMOUR HANDCRAFTS, INC.,
Secaucus, N.J., June 3, 1982.

CHAIRMAN, TRADE SUBCOMMITTEE,
House Subcommittee, Cannon House Office Building,
Washington, D.C.

DEAR MISTER CHAIRMAN: My name is Jim Mackin, and I am the Controller of Armour Handcrafts, Inc., We are one of the largest manufacturers of needlecraft kits in this country and employ more than 1,000 people.

I am submitting this written testimony to you in support of bill 63-96 which intends to relieve the duties on needlecraft display models. The relief of these duties would allow us to import more display models. The relief of these duties would allow us to import more display models which would increase sales dramatically and require much additional production, thereby creating more jobs.

Sincerely,

JIM MACKIN, *Controller.*

CARON INTERNATIONAL,
New York, N.Y., June 3, 1982.

CHAIRMAN OF TRADE SUBCOMMITTEE,
House Ways and Means Committee,
Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am President of Caron International a large yarn and needlecraft kit manufacturing company employing 2,000 people in the U.S.A.

I am submitting this testimony in support of House Bill 6396, a bill which will grant duty-free treatment for needlecraft display models.

Needlecraft display models must be made by hand which makes it prohibitively expensive to make in this country. Most of these models are made in Haiti and, despite the very low wages in that country, the cost of the finished model is getting too high for many U.S. retailers.

Having the model displayed along with the kit is important to the sale of the kit. The consumer sees what the finished product looks like and, thus, is encouraged to buy the kit.

If we can reduce the price of these models by eliminating the duty, it would allow more models to be sold and, thus, more U.S. made kits to be sold. The models are not made in the United States now so it would not adversely affect any U.S. employment but it would have a positive effect on U.S. employment by the potential increase in sales of kits made here in the United States.

Therefore, I hope that you will support this legislation and make every effort to pass this bill into law.

Thank you for your consideration.

Sincerely,

JOHN B. CARON, *President.*

CRAFT YARN COUNCIL OF AMERICA,
Gastonia, N.C., June 2, 1982.

Re Legislation to provide for duty-free treatment of certain needlecraft display models.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Ways and Means Committee, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is to support legislation currently before your committee, providing for duty-free treatment of certain needlecraft display models, which are replicas of needlecraft kits. It is being submitted for the written record.

Our primary interest in the legislation is that it has been demonstrated that display models increase kit sales produced by the U.S. craft yarn industry on roughly a 10 to 1 ratio. From the kit producers view, it would be desirable to have a model on display for every kit design. Because of the high cost of such models, retailers are reluctant to display a full line of replica models corresponding to the full line of kits available and replacing those models when new kit designs are introduced.

Since the components for the models are produced in the United States, the value added is only the hand labor to do the needlework or hand stitching. The framing and final preparation of the models is done in the United States. The economics are such that the hand labor to do the needlework commercially is simply not available in the United States. In essence, this bill would increase needlecraft kit sales, with resulting employment benefits to those workers employed in fiber production, yarn spinning and dyeing, backing fabric production, kit assembly, shipping, retailing, etc.

It is our understanding that the International Trade Commission has proposed a modification to the language of HR 6396, which would assure that duty-free treatment of models could not be abused. We support that position and did, in fact, have some concern ourselves that without modification, the legislation would be abused. It is hoped that modification will be considered during mark-up, particularly since some of the individual T.S.U.S.A. descriptions do not appear necessary to adequately cover the intended models. Perhaps a single detailed description could serve the intended purpose, as follows: "Needlecraft display models, which are replicas of needlecraft kits commercially produced in the United States, of two or more component materials supplied by the needlecraft kit producers, and imported for use in promoting the sale of needlecraft kits."

In conclusion, we reiterate that the sole purpose of this legislation is to promote increased sales of needlecraft kits produced in the United States.

Sincerely,

JIM H. CONNER, *Secretary.*

STATEMENT OF THE INTERNATIONAL LADIES' GARMENT WORKERS' UNION

The International Ladies' Garment Workers' Union, on behalf of its some 300,000 members who produce women's and children's apparel and accessories, strongly oppose passage of H.R. 6396. This bill would permit duty-free entry for "needlecraft display models" falling within 21 different TSUS numbers. Elimination of these duties would increase the already fierce competition from foreign sources at the expense of domestic operations and further erode actual and potential job opportunities in the United States.

Needlework kits have been made and sold in the United States for many years. To show consumers the appearance of the finished products, "models" have been prepared and displayed. Such "models" were often made in the United States, most particularly in Puerto Rico where the hand needlework tradition is strong. Increasingly, however, the making of "models" has been diverted from the United States to foreign countries where labor costs are but a fraction of those in our country. The workers affected by the transfer of work abroad have been among the poorest and most disadvantaged of our citizens.

The competition from foreign sources was documented by the testimony of Ms. Gloria Domenech of Mayaguez, Puerto Rico, in the course of minimum wage hearings held by the U.S. Department of Labor in 1975. Ms. Domenech, whose firm makes "models" among other products, testified:

"Display models for the sale of kits. A few years ago, Puerto Rico had this market. Other contractors in Mayaguez use to produce work for . . . well known firms making kits, and all have been forced to close down, leaving our embroiderers without any source of income, while this work is now being produced in nearby islands, in Europe and in the Orient. (U.S. Department of Labor, Wage and Hour Division, In the Matter of: Public Hearing before Industry Committee No. 128-B for the Handkerchief, Scarf and Art Linen Industry in Puerto Rico, Official Transcript of Proceedings, October 28 and 29, 1975, pp. 152ff.)

The competitive position of foreign producers, already advantageous because of low wages, was enhanced by the tariff cuts negotiated in the course of the Tokyo Round. These reductions started taking effect in 1982 and will lead to annual decreases in duty over the next several years. Elimination now of all duty on "models" would subvert the Tokyo Round negotiations and cause irreparable damage to firms and workers in Puerto Rico and other parts of the United States.

Apart from the economic factors which weigh against passage of this legislation, we would like to draw the Committee's attention to a number of critical defects. The use of "models" has generally been confined to a limited number of articles, most particularly needlepoint intended for framing after completion. We are not aware of the use of "models" or even "kits" in the wide range of items encompassed by this bill. Further, many of the TSUS numbers encompassed by the bill are what are referred to as "baskets", that is groupings of disparate, unidentified products. We believe that were such legislation adopted, its vagueness would encourage violation. Violation would also be a possibility because of the intrinsic nature of these "models". A "model" is a "kit" that has been completed. Since a sizable number of "models" may be made for a given kit—one is needed for each store—there would be absolutely no way to distinguish a shipment of finished products intended for sale and hence subject to duty, and a shipment of duty-free "models". The possibilities for falsification of records are obvious.

For all of the above reasons, the International Ladies' Garment Workers' Union urges rejection of H.R. 6396.

NEEDLECRAFT CORP. OF AMERICA,
Dalton, Ga., June 2, 1982.

CHAIRMAN OF THE TRADE SUBCOMMITTEE,
House Ways and Means Committee,
Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am Vice President of Needlecraft Corporation of America, a company that manufactures yarn and needlecraft kits in Dalton, Georgia and employs approximately 600 people and also a spinning plant in LaFayette, Georgia employing about 200 workers. This letter is written in testimony supporting the passage of a bill introduced in the House of Representatives Sub-Committee by Congressman Sam Gibbons (D-Fla.) recently granting duty free treatment to needlecraft display models.

Duty suspension on these models (which are used to display and advertise needlecraft model kits) would significantly increase sales thereby allowing our industry to lower prices and would lead to increased employment opportunities for American workers.

I would be grateful if you would lend your support to this important bill. It would certainly help our business in Dalton and LaFayette as well as to revitalize the entire needlecraft industry.

Yours truly,

ED COWELL,
Vice President.

○